101st Congress
1st Session

COMMITTEE PRINT

MINUTES

OF THE

BUSINESS MEETINGS AND HEARINGS

OF THE

COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES

(Pursuant to Committee Rule IVf)

PART 1

DECEMBER 8, 1989.—Printed for the use of the Committee on Agriculture

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COMMITTEE ON AGRICULTURE

E (KIKA) DE LA GARZA, Texas, *Chairman*

WALTER B. JONES, North Carolina
GEORGE E. BROWN, JR., California
CHARLES ROSE, North Carolina
GLENN ENGLISH, Oklahoma
LEON E. PANETTA, California
JERRY HUCKABY, Louisiana
DAN GLICKMAN, Kansas
TONY COELHO, California[1]
CHARLES W. STENHOLM, Texas
HAROLD L. VOLKMER, Missouri
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JIM OLIN, Virginia
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BEN NIGHTHORSE CAMPBELL, Colorado
MIKE ESPY, Mississippi
BILL SARPALIUS, Texas
JILL L. LONG, Indiana[2]
GARY CONDIT, California[3]
ROY DYSON, Maryland
H. MARTIN LANCASTER, North Carolina

EDWARD R. MADIGAN, Illinois
Ranking Minority Member
E. THOMAS COLEMAN, Missouri
RON MARLENEE, Montana
LARRY J. HOPKINS, Kentucky
ARLAN STANGELAND, Minnesota
PAT ROBERTS, Kansas
BILL EMERSON, Missouri
SID MORRISON, Washington
STEVE GUNDERSON, Wisconsin
TOM LEWIS, Florida
ROBERT F. (BOB) SMITH, Oregon
LARRY COMBEST, Texas
BILL SCHUETTE, Michigan
FRED GRANDY, Iowa
WALLY HERGER, California
CLYDE C. HOLLOWAY, Louisiana
JAMES T. WALSH, New York
BILL GRANT, Florida[4]

PROFESSIONAL STAFF

BERT R. PEÑA, *Staff Director*
DANIEL E. BRINZA, *Counsel*
CHARLES HILTY, *Minority Staff Director*
JAMES A. DAVIS, *Press Secretary*

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[1] Resigned from Congress, June 15, 1989.
[2] Elected to committee, April 27, 1989.
[3] Elected to committee, October 16, 1989.
[4] Elected to committee, May 4, 1989.

Rule IVf of the Committee on Agriculture, House of Representatives, requires that the minutes of business meetings and hearings be published on a periodic basis.

In compliance with that rule, the minutes of business meetings and hearings from January 31, 1989, through December 8, 1989, are contained in this committee print.

The committee rule follows:

f. *Publication of Minutes.*—The Chairman of the Committee, in consultation with the Ranking Minority Member, shall cause to be published as a Committee Print on a periodic basis (and insofar as practicable on a semiannual basis) the minutes of all business meetings and hearings of the Committee and any of its Subcommittees; and such minutes shall include a record of the attendance of members, all recorded votes, and the action on all amendments and motions relating to legislation.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date January 31, 1989

(Sub) Committee: Forests, Family Farms, and Energy of the House Agriculture Committee, and the Interior and Insular Affairs Subcommittee on National Parks and Public Lands

met at 10:05 am o'clock, in Room 1324 Longworth House Office Building

for the purpose of reviewing fire management policies within the National Forest System

The following Members were present:

Mr. Volkmer	Mr. Morrison	Mr. Vento
Mr. Olin	Mr. Marlenee	Mr. Lehman
Mr. Jontz	Mr. Herger	Mr. DeFazio
Mr.	Mr. Walsh	Mr. Lagomarsino
Mr.	Mr.	Mr. Cheney
Mr.	Mr.	Mr. Craig
Mr.	Mr.	Mr. Williams
Mr.	Mr.	Mr. Udall
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.

Staff Present:

Timothy P. DeCoster, Subcommittee Staff Director
Carol Ann Dubard, Minority Staff Consultant
Francie Monaghan, Staff Assistant

Witnesses:

Panel I

Mr. George S. Dunlop, Assistant Secretary, Special Services, U.S. Department of Agriculture, Washington, DC
accompanied by: Mr. George M. Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, DC

Mr. Dean E. Stepanek, Assistant Director, Land and Renewable Resources, Bureau of Land Management, Department of the Interior, Washington, DC

Mr. William Penn Mott Jr., Director, National Park Service, Department of the Interior, Washington, DC
accompanied by: Mr. Denis P. Galvin, Deputy Director of the National Park Service, Department of the Interior; and Mr. Walter Dabney, Chief Ranger, National Park Service, Department of the Interior, Washington, DC

Panel II

Mr. George T. Frampton Jr., President of the Wilderness Society, Washington, DC

Dr. Norman L. Christensen Jr., Professor of Botany and Forestry and Environmental Studies, Duke University, Durham, North Carolina, and Chairman of the Greater Yellowstone Postfire Ecological Assessment Panel

Mr. Lynn A. Greenwalt, Vice President, National Wildlife Federation, Washington, DC

Mr. Arthur D. Reese, Chief of Habitat and Technical Services, Wyoming Game and Fish Department, Cheyenne, Wyoming

Mr. William H. Banzhaf, Executive Vice President, Society of American Foresters, Bethesda, Maryland

Panel III

Mr. Mark Rey, Vice President for Public Forestry Programs, National Forest Products Association, Washington, DC

Ms. Terry Davies, Legislative Advocate, Timber Association of California, Sacramento, California

Mr. James E. Brown, Oregon State Forester, National Association of State Foresters, Salem, Oregon

Mr. Alston Chase, Author, Livingston, Montana

Dr. Thomas M. Bonnicksen, Department Head and Professor, Department of Recreation and Parks, Texas A&M University, College Station, Texas

U.S. GOVERNMENT PRINTING OFFICE: 1995 46-381 (2-4)

Tuesday, January 31, 1989
Agriculture Subcommittee on Forests, Family Farms, and Energy and Interior Subcommittee on National Parks and Public Lands
Joint Public Hearing
Oversight hearing on the 1988 western forest fire season

Panel IV

Dr. Dennis H. Knight, Professor of Botany, University of Wyoming, and President-elect of the Ecological Society of America, Laramie, Wyoming

Dr. James M. Peek, Professor of Wildlife Management, University of Idaho, Moscow, Idaho

Dr. James K. Agee, Chair of the Forest Resources Management Division, College of Forest Resouces, University of Washington, Seattle, Washington

Dr. Gerald J. Gray, Director of Resource Policy, American Forestry Association, Washington, DC

Panel V

Mr. Terry Povah, President, Hamilton Stores, Inc., West Yellowstone, Montana

Mr. Hayes Kirby, Owner, Grizzly Lodge, Silver Gate, Montana

Mr. P. Ray Krone Jr., Rancher, Augusta, Montana

Ms. Louisa L. Willcox, Program Director of the Greater Yellowstone Coalition, Bozeman, Montana

accompanied by: Mr. Richard Parks, owner of Parks Fly Shop and outfitter, Gardner, Montana

Tuesday, January 31, 1989
Agriculture Subcommittee on Forests, Family Farms, and Energy and Interior Subcommittee on National Parks and Public Lands
Joint Public Hearing
Oversight hearing on the 1988 western forest fire season

Interior Subcommittee Chairman Vento called the meeting to order and, after brief opening remarks, recognized Agriculture Subcommittee Chairman Volkmer and the other Members of both Subcommittees for their comments. Since neither the Interior Committee nor the Agriculture Committee had organized for the 101st Congress, this joint hearing was open to all members of both Committees. Mr. Volkmer shared the duties of the Chair with Mr. Vento.

The scheduled witnesses on pages two and three of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members.

During the proceedings, two special introductions were made: Congressman Vento -- Mr. Alston Chase from Livingston, Montana; and Congressman Lagomarsino -- Mr. Terry Povah of West Yellowstone, Montana.

In brief closing remarks, Mr. Vento thanked the witnesses for their testimony. The hearing was then adjourned at 6:30 p.m., subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, February 1, 1989

(Sub) Committee: Full

Business Meeting

met at 12:05 p.m. o'clock, in Room 1300 Longworth House Office Bldg.

for the purpose of organizing the Committee for the 101st Congress

The following Members were present:

Mr.	de la Garza	Mr.	Nagle	Mr.	Madigan
Mr.	Brown	Mr.	Jontz	Mr.	Coleman
Mr.	Rose	Mr.	Johnson	Mr.	Marlenee
Mr.	English	Mr.	Harris	Mr.	Stangeland
Mr.	Huckaby	Mr.	Espy	Mr.	Roberts
Mr.	Glickman	Mr.	Sarpalius	Mr.	Emerson
Mr.	Stenholm	Mr.	Dyson	Mr.	Morrison
Mr.	Volkmer	Mr.	Lancaster	Mr.	Gunderson
Mr.	Hatcher	Mr.		Mr.	Lewis
Mr.	Tallon	Mr.		Mr.	Combest
Mr.	Staggers	Mr.		Mr.	Schuette
Mr.	Olin	Mr.		Mr.	Grandy
Mr.	Stallings	Mr.		Mr.	Herger
				Mr.	Walsh
				Mr.	
				Mr.	
				Mr.	

Staff present:

Bert Peña, Staff Director
Phil Fraas, Counsel
John Hogan, Minority Counsel
Charles Hilty, Minority Staff Director
Glenda Temple, Clerk
Vernie Hubert, Assistant Counsel
Fred Clark, Staff Assistant

Witnesses:

None

U.S. GOVERNMENT PRINTING OFFICE: 1987 75-833 (14)

Wednesday, February 1, 1989
Full Committee
Business Meeting
Committee organization for the
101st Congress

Action Taken:

-- Without objection Brown motion that Chairman de la Garza be authorized to act for Committee in matters affecting staff and administration approved.

-- Without objection Madigan motion to approve Committee Rules for 101st Congress agreed to.

-- Without objection Subcommittee assignments for 101st Congress approved.

Chairman de la Garza called the meeting to order for the purpose of organizing the Committee on Agriculture for the 101st Congress. The Clerk was directed to call the roll, and the following Members responded when their names were called.

1. Mr. Brown
2. Mr. English
3. Mr. Glickman
4. Mr. Stenholm
5. Mr. Hatcher
6. Mr. Tallon
7. Mr. Olin
8. Mr. Jontz
9. Mr. Johnson
10. Mr. Sarpalius
11. Mr. Lancaster
12. Mr. Madigan
13. Mr. Coleman
14. Mr. Stangeland
15. Mr. Roberts
16. Mr. Emerson
17. Mr. Morrison
18. Mr. Gunderson
19. Mr. Combest
20. Mr. Schuette
21. Mr. Grandy
22. Mr. Walsh
23. Mr. de la Garza
24. Mr. Rose
25. Mr. Huckaby
26. Mr. Stallings
27. Mr. Harris
28. Mr. Dyson
29. Mr. Marlenee
30. Mr. Lewis

Thirty Members having responded, a quorum was established.

Chairman de la Garza introduced the two new Members of the majority for the 101st Congress -- Mr. Sarpalius of Texas and Mr. Dyson of Maryland. Mr. Madigan, the Ranking Minority Member, introduced Mr. Walsh of New York as the new Member on the minority side.

Mr. Volkmer introduced a visitor--Mr. Suthep Thaugsuban, Chairman of the House Committee on Agriculture and Co-operatives of Thailand--to the Committee.

Wednesday, February 1, 1989
Full Committee
Business Meeting
Committee organization for the
101st Congress

Mr. Brown moved that Chairman de la Garza be authorized to act for the Committee, in consultation with the Ranking Minority Member, in matters affecting staff and administration of the Committee. There was no objection.

Mr. Madigan moved that the Committee Rules of the 100th Congress, as amended by the two attached proposals, be the rules of the Committee on Agriculture for the 101st Congress. Without objection the motion was agreed to.

Chairman de la Garza announced the Subcommittee Chairmen, as elected by the Democratic Caucus of the Committee, as follows:

George E. Brown, Jr. - Subcommittee on Department Operations, Research, and Foreign Agriculture

Charles Rose - Subcommittee on Tobacco and Peanuts

Glenn English - Subcommittee on Conservation, Credit, and Rural Development

Jerry Huckaby - Subcommittee on Cotton, Rice, and Sugar

Dan Glickman - Subcommittee on Wheat, Soybeans, and Feed Grains

Charles W. Stenholm - Subcommittee on Livestock, Dairy, and Poultry

Harold L. Volkmer - Subcommittee on Forests, Family Farms, and Energy

Charles Hatcher - Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition

Mr. Madigan, the Ranking Minority Member of the Committee, announced the Ranking Minority Members of the Subcommittees, as elected by the Republican Caucus of the Committee, as follows:

Arlan Stangeland - Subcommittee on Cotton, Rice, and Sugar

Steve Gunderson - Subcommittee on Livestock, Dairy, and Poultry

Larry J. Hopkins - Subcommittee on Tobacco and Peanuts

Wednesday, February 1, 1989
Full Committee
Business Meeting
Committee organization for the
101st Congress

Ron Marlenee - Subcommittee on Wheat, Soybeans, and Feed Grains

E. Thomas Coleman - Subcommittee on Conservation, Credit, and Rural Development

Pat Roberts - Subcommittee on Department Operations, Research, and Foreign Agriculture

Bill Emerson - Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition

Sid Morrison - Subcommittee on Forests, Family Farms, and Energy

Chairman de la Garza advised that the Subcommittee assignments, as reflected on the attached list, were within the ratios required by the House. He moved that the Subcommittee appointments be accepted, and there was no objection.

The Chairman advised that the Committee would be very busy during the 101st Congress to consider not only items that would need to be reauthorized but also areas of special interest and need for action. The agenda includes farm bill reauthorization, budget situation, rural development, crop insurance, farm credit review, rural telephone bank, conservation compliance, conservation reserve program, groundwater, pesticides, food safety, global warming, trade, GATT, export promotion programs, tobacco export programs, nutrition and hunger (especially in children), nutrition education and monitoring, food stamps, cattle industry, grading standards, dairy, research of new food processing methods for livestock products, egg producers prompt payment proposal, fire policies, timber sales, Tongass National Forest, land exchanges, wilderness designations and land acquisitions, endangered species protection, state and private forestry, research, biotechnology, ARS/CRS facilities and programs, agricultural weather, biodiversity, animal patenting, disaster assistance (especially drought), ethanol/methanol, grain quality, and reauthorization of the CFTC.

Wednesday, February 1, 1989
Full Committee
Business Meeting
Committee Organization in the
101st Congress

The Chairman further charged the Subcommittee on Conservation, Credit, and Rural Development to investigate the current problems in the Chicago markets and the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition to solve child nutrition and hunger in America. The Chairman announced that the full Committee and Subcommittees would be holding extensive hearings in Washington and in the field to get a feel for what is needed for the 1990 farm bill.

Mr. Roberts asked if counsels could take a careful look to see what options might be available in the event disaster assistance is needed for 1988 seeded crops due to the drought. Mr. Brown advised that he considered an early priority to be passage of the National Nutrition Research and Monitoring legislation which was pocket vetoed by the President in the 100th Congress. Mr. Stangeland asked that an indepth study be made on crop insurance. Mr. Stenholm stated that he felt early action may need to be taken on food safety and the hormone ban.

At 12:45 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

A G E N D A

Full Committee Organizational Meeting

Wednesday, February 1, 1989

1. Establishment of a quorum.

2. Introduction of new Members of the Committee.

   Majority -- Chairman de la Garza

   Minority -- Mr. Madigan

3. Motion to authorize the Chairman to act for the Committee in matters affecting staff and administration of the Committee.

4. Consideration and adoption of Committee Rules.

5. Introduction of Subcommittee Chairmen and Ranking Minority Members nominated by respective caucuses.

6. Approval of membership of Subcommittees.

PROPOSED 101ST CONGRESS COMMITTEE RULES
(INCLUDING AMENDMENT REGARDING ARCHIVING OF COMMITTEE RECORDS)
(AND AMENDMENTS TO SUBCOMMITTEE RATIOS)

Amendment Regarding Archiving of Committee Records

After paragraph (f) of Part V insert the following new paragraph (g):

"g. Archiving of Committee Records.--The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.".

Amendments to Subcommittee Ratios

Paragraph (b) of Part VI is amended--

(1) in the item labeled "Domestic Marketing, Consumer Relations, and Nutrition", by striking out "(13 members, 8 majority and 5 minority)", and inserting in lieu thereof "(11 members, 7 majority and 4 minority)", and

(2) in the item labeled "Forests, Family Farms, and Energy", by striking out "(18 members, 11 majority and 7 minority)", and inserting in lieu thereof "(15 members, 9 majority and 6 minority)".

CHANGES IN EXISTING COMMITTEE RULES

Following is a Ramseyer of the 100th Congress Committee Rules showing the changes made by the amendments. (New matter is underlined; Material to be deleted is linetyped.)

Amendment Regarding Archiving of Committee Records

V. OTHER COMMITTEE ACTIVITIES

* * * * * * * *

g. Archiving of Committee Records.--The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.

* * * * * * * *

Amendments to Subcommittee Ratios

VI. SUBCOMMITTEES

* * * * * * *

b. Jurisdiction.--The Subcommittees shall have the following general jurisdiction and number of members.

* * * * * * * *

OPERATIONAL SUBCOMMITTEES

* * * * * * * *

Domestic Marketing, Consumer Relations, and Nutrition ~~(13 members;--8 majority and 5 minority)~~ (11 members, 7 majority and 4 minority).--Marketing orders, domestic marketing, food stamps, nutrition, and consumer programs, generally.

Forests, Family Farms, and Energy ~~(18 members;--11 majority and 7 minority)~~ (15 members, 9 majority and 6 minority).--Family farming, forestry, and energy matters, generally.

* * * * * * * *

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

SUBCOMMITTEE ASSIGNMENTS -- 101st CONGRESS

Chairman and Ranking Minority Member Ex Officio
Members of All Subcommittees

Commodity Subcommittees

Cotton, Rice, and Sugar
(Ratio 11-7)

Jerry Huckaby, Chrm.
Tony Coelho
Robin Tallon
Mike Espy
Charles W. Stenholm
Richard H. Stallings
Bill Sarpalius
Walter B. Jones
Charles Hatcher
vacancy

Arlan Stangeland
Bill Emerson
Tom Lewis
Larry Combest
Wally Herger
Clyde C. Holloway

Livestock, Dairy, and Poultry
(Ratio 11-7)

Charles W. Stenholm, Chrm.
Tony Coelho
Jim Olin
Ben Nighthorse Campbell
Tim Johnson
Claude Harris
Charles Rose
Harold L. Volkmer
Timothy J. Penny
David R. Nagle

Steve Gunderson
Larry J. Hopkins
Arlan Stangeland
Tom Lewis
Robert F. (Bob) Smith
James T. Walsh

Tobacco and Peanuts
(Ratio 8-5)

Charles Rose, Chrm.
Walter B. Jones
Charles Hatcher
Glenn English
Robin Tallon
Charles W. Stenholm
H. Martin Lancaster

Larry J. Hopkins
Pat Roberts
Larry Combest
Steve Gunderson

Wheat, Soybeans, and Feed Grains
(Ratio 12-8)

Dan Glickman, Chrm.
Tim Johnson
Glenn English
Harold L. Volkmer
Timothy J. Penny
David R. Nagle
Bill Sarpalius
Jim Jontz
Ben Nighthorse Campbell
Roy Dyson
Jerry Huckaby
Ron Marlenee
Arlan Stangeland
Pat Roberts
Bill Emerson
Robert F. (Bob) Smith
Bill Schuette
Fred Grandy

Operational Subcommittees

Conservation, Credit, and Rural Development
(Ratio 11-7)

Glenn English, Chrm.
Robin Tallon
Timothy J. Penny
Richard H. Stallings
David R. Nagle
Jim Jontz
Claude Harris
Harley O. Staggers, Jr.
Mike Espy
Bill Sarpalius
E. Thomas Coleman
Sid Morrison
Steve Gunderson
Larry Combest
Fred Grandy
Clyde C. Holloway

Department Operations, Research, and Foreign Agriculture
(Ratio 9-6)

George E. Brown, Jr., Chrm.
Charles Rose
Leon E. Panetta
Charles W. Stenholm
Dan Glickman
Charles Hatcher
Jim Olin
Harold L. Volkmer
Pat Roberts
E. Thomas Coleman
Sid Morrison
Fred Grandy
James T. Walsh

Domestic Marketing, Consumer Relations, and Nutrition
(Ratio 7-4)

Charles Hatcher, Chrm.
Leon E. Panetta
Dan Glickman
Harley O. Staggers, Jr.
Mike Espy
Bill Sarpalius
Bill Emerson
Tom Lewis
Wally Herger

Forests, Family Farms, and Energy
(Ratio 9-6)

Harold L. Volkmer, Chrm.
Jerry Huckaby
Jim Olin
Richard H. Stallings
Jim Jontz
Leon E. Panetta
Tim Johnson
Claude Harris

Sid Morrison
Ron Marlenee
Robert F. (Bob) Smith
Bill Schuette
Wally Herger

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, February 9, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Business Meeting

met at 2:35 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of organizing Subcommittee for the 101st Congress, and reviewing the Commodity Futures Trading Commission

The following Members were present:

Mr. English	Mr. Coleman	Mr.
Mr. Tallon	Mr. Morrison	Mr.
Mr. Penny	Mr. Gunderson	Mr.
Mr. Jontz	Mr. Combest	Mr.
Mr. Harris	Mr. Grandy	Mr.
Mr.	Mr. Holloway	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.

Staff Present:
Bill Cherry, Subcommittee Staff Director
Dave Ebersole, Minority Consultant
Bert Peña, Staff Director
John Hogan, Minority Counsel
Vernie Hubert, Associate Counsel
Glenda Temple, Clerk
Bill O'Conner, Assistant Minority Staff Director
Jim Davis, Press Secretary
Jim Lyons, Staff Assistant
James E. McDonald, Staff Assistant

Witnesses:

Hon. Wendy L. Gramm, Chairman, Commodity Futures Trading Commission, Washington, D.C.

Acc. by: Mr. John Phillips, Judgment Officer, CFTC

U.S. GOVERNMENT PRINTING OFFICE: 1985 46-201 (a-a)

Thursday, February 9, 1989
Subcommittee on Conservation, Credit, and Rural Development
Business Meeting
Subcommittee organization and report from CFTC

Chairman English called the meeting to order for the purpose of organizing the Subcommittee for the 101st Congress. Mr. English welcomed and introduced the new Members of the Subcommittee.

Mr. English outlined the agenda of the Subcommittee for the 1st session of the 101st Congress, as follows: Reauthorization of the Commodity Futures Trading Commission, with an indepth look at each exchange, trading practices and regulations; rural development; crop insurance; review the Farm Credit Administration and how legislation is working; agricultural finance; conservation reserve; Soil Conservation Service review; Farmer Mac; Farm Credit Insurance Fund; Rural Telephone Bank; and Farmers Home Administration review.

Mr. Coleman, the Ranking Minority Member of the Subcommittee, also addressed the proposed agenda and discussion occurred among the Members.

Wendy L. Gramm, Chairman of the Commodity Futures Trading Commission, was recognized to make a brief statement about the Commodity Futures Trading Commission's role as the oversight regulator of futures and options markets in the U.S. In addition, she addressed certain questions which had been submitted. (See attached copy of statement and responses.)

At 3:35 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

Raven Trevor
CCRD

Mr. Chairman, I appreciate your holding this as the Subcommittee on Conservation, Credit and Rural Development introductory meeting. We are all looking forward to a productive and rewarding 101st Congress under your leadership.

As our work on the Subcommittee begins to take shape, I wanted to take a moment to share with you some thoughts on a top priority of mine for this year - rural economic development legislation.

Rural communities are small to mid sized (under 20,000) with one foot in industry and one on the farm. And while it may not depend solely on agriculture, every small town in America, like every town in my Congressional District, has been affected by the continued decline in rural land values, income and population.

Mr. Chairman, I know that you and the other members of the Subcommittee share my concern over rural development. It is a challenge that extends beyond the farm gate to Main Street, to our local schools, our neighborhoods.

Exactly what is rural development? For starters, it's improved roads, new bridges, modern water and sewer facilities and industrial parks. It's better schools, new homes, and a revitalized Main Street. Most importantly, it's creating the capacity for economic growth and jobs. It's a Marsall Plan for rural America.

In my view any successful plan for rural development must address three fundamental rural problems: reasonable cost venture financing for small businesses; the lack of infrastructure, specifically water and sewer systems; and a more organized, streamlined and responsive federal bureacracy.

I believe the place to start is with a reorganization of the Department of Agriculture into a Department of Agriculture and Rural Development. Right now, responsibility and authority for the development of rural America is fragmented, disjointed, and basically unwanted. In fact, there are more rural development programs outside the Department of Agriculture than there are inside. In contrast, city residents have a special Cabinet level of concern in the Department of Housing and Urban Development (HUD).

The solution is to restructure the majority of programs dealing with rural development under a single agency with a direct line of responsibility and responsiveness to the people of rural America.

Programs transferréd to this new RDA could include business and industry loans, community facility loans, water and waste disposal loans and grants, rural development and planning grants and loans and all other programs dealing with rural development. A Rural Development Administration would bring us closer to ensuring that rural communities get the focused, coordinated and energetic economic development support they deserve.

The second requirement is probably the most critical - water and sewer assistance. A community can have all the technical expertise, leadership, and potential in the world but without an adequate water and sewer system in place, it's going nowhere. A quality sewer and water system is the first thing a company looks for in relocation and it's a community's first demonstration that you are ready willing and able to meet that company's future needs. It's the first test and for far too many communities in our District it becomes the last one. Water and sewer lines are what it takes to move a community from rural to rural development.

The final ingredient for rural development is capital. Small businesses in rural communities traditionally have had difficulty securing adequate capital to get their ideas off the ground. The challenge is as much one of changing the focus of existing programs as it is of creating new ones.

For example, there are already federal loan guarantee programs. But most of these target large businesses with lower relative transaction costs when smaller businesses are rural America's brightest hope.

Some 80 percent of America's businesses are sole proprietorships and 75 percent of these employ fewer than ten people. A recent SBA study indicates that these very small businesses are particularly successful in rural states like South Carolina.

Despite their collective impact, the smallest enterprises are rarely the focus of public and private resources. They are frequently left with inadequate access to credit, information and to appropriate technical information.

Federal small business programs do not address the financing needs of microbusinesses. The average Small Business Administration loan guarantee in FY 87 was $165,000. While the average guaranteed loan through Farmers Home Administration's Business and Industry program totals $1.1 million. Yet "micro businesses" have smaller, but more unconventional capital needs. Often, patient seed money loans of $10,000 to $15,000 when combined with personal savings are all that is necessary to get started.

I support the idea of a revolving loan fund for microbusiness assistance. Such a fund would make grants to qualified private non-profits to capitalize loan funds for micro businesses (under 16 people) for up to $25,000.

Another problem for rural small businesses is traditional bank financing. In most parts of the country, the rural banking system is flush with loanable funds. Yet these banks find that the risks of lending to rural start-up businesses are too great in light of the safety and soundness requirements of the regulatory agencies. Because of these regulatory restrictions, banks have limited flexibility in offering entrepreneurs appropriate mixes of risk (also known as equity or venture capital) or debt capital (loans and bonds).

Rural communities, in conjunction with the private sector and public support can break down some of these barriers to rural debt, risk and mixed capital investment. I would like to see us come up with a system in which small businesses could apply for a package of funds: risk capital from a cooperative non-profit and a conventional loan from a local participating bank.

Under such a program, a federal rural capital partnership fund would provide grants to cooperatives and non-profits serving rural communities. The coop or non-profit would in turn recruit banks and other private financial institutions to commit to the project. The coop then would buy into the business with risk capital while the bank complemented that amount with a standard loan.

The small businesses applying for the funds would submit a workplan including intended use of funds, up front financial commitments from the applicant and from local lending institutions with a three to one minimum match. In survey after survey, rural businesses have said they were looking for the right dollars at the right interest rate and that reduced interest rates were often as useful as outright grants. It's time they got it.

There's a phenomenon referred to as the economic multiplier. It gauges how many times a dollar changes hands and the total financial impact of one dollar spent. If a person spends a new dollar in the community, and each person that receives it does the same, with about 10 cents off for profit, savings and other needs, the multiplier is 10 times. That means that one new dollar in a commmunity generates about $10 in business activity. And that $10 is in turn multiplied throughout every surrounding community.

Like a stone thrown into the center of a pond, the ripples of economic development spread prosperity throughout an entire geographic area. As John F. Kennedy put it, " a rising tide lifts all the boats."

Mr. Chairman, you are one of agriculture's greatest friends. At the same time you understand that the future of our agricultural economy extends far beyond commodities. I look foward to working with you this Congress in building a rural America that can move strongly and surely into the next century.

REMARKS OF
WENDY L. GRAMM

February 9, 1989

Mr. Chairman and members of the Subcommittee, I am here today to make a brief statement about the Commodity Futures Trading Commission's role as the oversight regulator of futures and options markets in the U.S. I will also touch briefly on a number of subjects in which you indicated an interest.

As you know, I will not be available today to respond to questions. However, the Commission looks forward to assisting you to the fullest extent possible. Also, I would like to introduce a member of our staff, Mr. John Phillips, a Judgment Officer from the Office of Proceedings, whom we are making available to the Committee to assist you in your efforts.

The Commission appreciates your interest in this area and the role and responsibilities of this Subcommittee in overseeing the regulatory functions of the Commission. I understand your need for more specific information about the ongoing investigation in Chicago; however, the Commission remains concerned about any action it might now take that could jeopardize any ongoing investigation. I have spoken with the FBI and Attorney General's office to impress upon them your concerns and need for information at the earliest possible time in order that you may exercise your oversight responsibilities in the most efficient manner.

Let me give you an overview of the Commission's regulatory functions.

The Commission has responsibility for supervising:

- 13 futures and options markets located in Chicago, New York, Kansas City, Philadelphia and Minneapolis
- more than 370 licensed commodity firms (futures commission merchants),
- approximately 7,000 floor brokers,
- nearly 1,700 introducing brokers, and
- a total of approximately 70,000 other licensed futures professionals.

Over 241 million transactions occurred in these markets in 1988.

The Commission uses every tool at its disposal to monitor the markets under its jurisdiction. For example, it:

- conducts direct surveillance of markets and market professionals;
- maintains oversight of the self-policing efforts of the exchanges and the National Futures Association (which has responsibility for supervising non-exchange member firms);
- makes referrals to the exchanges for investigation and disciplinary action;
- brings enforcement actions both before the Commission's administrative law judges and the Federal courts;

- assists and coordinates with other civil and criminal enforcement authorities at the state and federal levels; and
- engages in cooperative arrangements with foreign authorities for enforcement and information-sharing purposes.

The Commodity Exchange Act contemplates a two-part system of market regulation and surveillance which imposes direct self-regulatory duties upon the exchanges and vests the Commission with authority to oversee and supplement exchange self-regulation. Thus, the Act combines a statutory requirement that exchanges police their own activities, markets, and members with a statutory requirement that the Commission oversee the effectiveness of such exchange self-policing activities. This system applies to the detection and prevention of trade practice abuses. It also applies to market surveillance, financial compliance and sales practice compliance.

The Exchange Self-Policing Requirement

The most important basis for exchange self-regulation is that exchanges can move more promptly and effectively in certain situations than can a government agency. Self-regulation is intended to assure the application of market expertise and exchange resources -- in addition to government resources -- to maintain fair, orderly and safe markets.

The Commodity Exchange Act and regulations promulgated by the CFTC require that before an exchange may be "designated" or

approved as a futures market, and to maintain such designation, it must satisfy requirements designed to ensure that the exchange will be able effectively to police its markets and provide customer protection. As an example of these requirements, the Commission explicitly requires exchanges to have programs which cover:

- market surveillance,
- surveillance of trading,
- propriety of books and records,
- investigation of complaints and alleged trade practice and other violations, and
- monitoring and auditing for satisfaction of financial requirements.

In fact, the Commission specifically requires exchanges to have rules in place which address maintenance of adequate trading records, price information, financial compliance, misuse of material non-public information, trading ahead of customers and other trading abuses.

As an express statutory condition of designation and continuing operation, each U.S. futures market must enforce all of the rules of that market which have been approved or permitted to become effective by the Commission.

To police its markets properly, an exchange must maintain a continuing, affirmative compliance program with sufficient mechanisms to deter, detect, and prosecute practices which tend to lessen the competitiveness of trading or take advantage of

customers, and otherwise to secure compliance with relevant provisions of the Commodity Exchange Act and Commission regulations. Commission rules 1.51 and 1.52, respectively, require futures markets designated by the Commission to use due diligence to maintain such programs. Guideline 2, issued by the Commission in 1975, states that due diligence means "proper, sufficient and reasonable care" and "proper, sufficient and reasonable effort" in carrying out a program which results in the taking of prompt, effective disciplinary action for any violation. The specific standards applied by the Commission to exchange compliance programs continue to evolve in order to address new market conditions, new products, new technology and Commission requirements.

The Oversight Requirement

As you know, the Congress did not commit the markets to self-policing alone. The Commodity Exchange Act requires Commission oversight. Accordingly, in adopting the Act in 1974, this Committee found that "[s]elf-regulation is a commendable and noble concept and useful in such a complex atmosphere as surrounds futures trading," but also recognized that self-regulation needs the incentive provided by government oversight and "cannot continue to function without a strong Federal regulatory umbrella." Of course, it also is important that government oversight be balanced. Effective and non-duplicative self-regulation is dependent on the Commission's responsible exercise of its power.

Performance of the Oversight Function

Commission oversight is accomplished by several types of activities, which can be characterized as follows:

(1) evaluation,

(2) punitive or remedial measures,

(3) prescriptive activities,

(4) interventions, and

(5) appellate or other review activities.

I will discuss briefly each of these oversight activities in turn.

Evaluation

These activities are of two types:

(1) direct review of trading activity and

(2) review of exchange systems to monitor trading activity and of exchange actions flowing from such monitoring.

Commission direct review includes on-site random floor surveillance and off-site review of trading records, both on a routine basis and for cause. "For cause" reviews may be generated on the basis of:

- complaints,
- rumors,
- suspicious patterns of trading identified from record surveillance,
- news reports,
- referrals from other agencies,

- referrals from the legislative branch based on constituent concerns or more general inquiries, and
- periods of unusual market or price activity.

These activities may result in referral of conduct for further investigation to the exchanges or to the Commission's Division of Enforcement. The Commission also conducts routine reviews to assess the quality of exchange self-policing programs. Since 1986 and the implementation of new exchange audit trail systems, these reviews have evaluated the use of computer programs to identify suspected trading abuses. The Commission staff also produces biennial "report cards" on exchange programs in the form of rule enforcement reviews. A unique aspect of these report cards is that they are made available to the public. Exchanges generally are responsive to these reports as evidenced by the significant upgrading of exchange programs in the last few years.

Punitive and Remedial Measures

When our reviews identify abusive trading activity not singled out for review by an exchange or not properly addressed by self-regulatory action, we refer such activity for further investigation. Investigations could be conducted by the exchange, by our own enforcement division and, in cases where the conduct has criminal implications and criminal powers are needed to fully address it, by the relevant criminal authorities. Between 1986 and 1988, Commission staff referred more than 150 brokers and 50 firms to exchanges for further investigation. During the same time frame, oversight staff referred additional

firms and brokers to the Commission's Division of Enforcement. During that period, the exchanges also suspended 104 traders, expelled 23 traders and assessed over $5 million in penalties for trade practice violations alone. Furthermore, improvements in exchange self-regulatory programs have occurred as a result of Commission enforcement cases brought against exchanges. Since 1982, such cases have been brought against the Chicago Mercantile Exchange, the Commodity Exchange, Inc., the Kansas City Board of Trade, and the Minneapolis Grain Exchange.

Prescriptive Activities

The Commission staff also engages in regulatory development and prescriptive activities related to their surveillance responsibilities and those of the various self-regulatory organizations. For example, the reports produced on exchange systems contain specific recommendations for prospective improvements. These recommendations address:

(1) the adequacy of systems used by exchanges to identify abusive practices,

(2) documentation of surveillance activities,

(3) the timeliness and scope of investigations,

(4) the types of exchange cases brought, e.g., substantive or recordkeeping, and

(5) the sufficiency of investigative activities.

The Commission or Commission staff may also issue guidelines and criteria for operating exchange self-regulatory programs. For example, the Commission has issued numerous financial segregation and sales practice guidelines. The staff also may

issue recommendations based on specific events, such as the Volume Investors Default of 1985 or the Market Break of 1987. Further, the Commission may develop regulations, such as the audit trail requirements of 1986 or the requirements of exchanges to assure registration of floor brokers, or to prevent misuse of material non-public information by exchange officials and employees, all of which were accomplished by recent Commission rules. These rules hold the exchanges to strict performance standards.

Interventions

The Commission, and in some cases its staff, can intervene to take emergency action with respect to a market or to appoint a receiver or approve the transfer of accounts in a deteriorating financial situation. Although an exchange can transfer customer accounts itself, it may be reluctant to do so where there is a shortfall of funds for any reason -- in which case, the protection of a receiver, which generally can only be obtained on Commission authority and with court approval, is warranted.

Review Activities

Finally all exchange rules are submitted to the Commission for review and all exchange disciplinary actions are reported to the Commission and also made public. The Commission thus can review the consistency of exchange rules and disciplinary actions to determine when further exchange, Commission or other action is appropriate.

Other Functions of the CFTC

In addition to oversight, which encompasses all of the Commission's regulatory compliance and enforcement activities, the Commission directly:

- provides a reparations forum and oversees customer arbitration programs,
- performs market surveillance, and
- brings enforcement cases of various types.

Market Surveillance

The CFTC employs a comprehensive Market Surveillance system which is designed to maintain freely competitive markets by detecting and preventing threats of price manipulation or other major market disruptions caused by abusive trading practices. CFTC Market Surveillance staff monitors daily, for all active futures and options contracts, the activities of large traders, key price relationships, and relevant supply and demand factors in a continuous review for potential market problems. The staff coordinates its activities with their exchange counterparts and works with them to resolve any potential market threats that may develop. Through weekly briefings, the Commissioners and senior CFTC staff are kept informed of potential problems and significant market developments so they will be prepared to take prompt regulatory action when necessary.

Enforcement

The Commission's enforcement program seeks to ensure compliance with the Act and Commission regulations through civil and administrative enforcement actions and coordinated law

enforcement activities with federal, state and local officials. Commission enforcement actions cover such diverse and complex violations as price manipulation; trade practice abuse; sales practice fraud; sale of illegal instruments; violation of financial integrity regulations and violation of reporting and recordkeeping requirements. Enforcement investigations are conducted based on information referred to the Division of Enforcement by other Commission divisions, and from other sources.

The sanctions that may be imposed in Commission proceedings include a Commission order directing a respondent to cease and desist from further violations, revoking or suspending a respondent's registration with the Commission, prohibiting a respondent from trading on Commission regulated markets, and imposing civil monetary penalties of up to $100,000 per violation. Injunctive actions may result in court orders enjoining illegal conduct, appointing a receiver, and imposing other equitable relief such as rescission of illegal contracts and restitution of customer funds. Criminal violations of the Act can result in fines of up to $500,000 per violation and imprisonment of up to five years. In addition to the Commodity Exchange Act, criminal authorities often use mail and wire fraud statutes to prosecute commodity-related fraud.

The Commission, of course, does not have criminal enforcement authority. To assure effective criminal investigation and prosecution, the Commission has long encouraged

criminal law enforcement through its education program and through participation in task forces and working groups, such as the Securities and Commodities Fraud Working Group. In addition, the Commission's Enforcement Division routinely cooperates with other federal and state law enforcement agencies, including the Department of Justice. For example, the Commission recently cooperated with the United States Attorney in Chicago in bringing indictments and informations against 18 former employees of First Commodity Corporation of Boston in a matter that began as an extensive Commission investigation and civil administrative action. Accordingly, the Commission welcomes the increased emphasis on prosecuting commodity-related fraud by the Department of Justice.

The Commission believes that its existing regulatory authority should be sufficient to discharge its responsibilities to protect the integrity of U.S. futures and options markets. To the extent that any improprieties or abuses found in the course of the ongoing investigation warrant changes in existing programs, systems or rules, the Commission stands ready to take such actions as may be appropriate to address those circumstances. Furthermore, should the investigation develop evidence of problems which the Commission believes would require legislative solutions, we will promptly inform the Committee and provide recommendations.

I'd now like to take a few minutes to address the questions you sent me late yesterday. Some of these questions have already been addressed in my statement.

2.Q. A general description of the regulatory scheme; i.e., self regulation and CFTC's supervision, etc., including NFA's role. Describe the CFTC registration process.

I have already described the Commission's general regulatory program. Let me now describe the CFTC's registration program.

The purpose of the registration program under the Commodity Exchange Act is to assure to the extent practicable that persons who deal with the public with respect to commodity interest trading are not unfit to do so. For the five categories of firms (futures commission merchant ("FCM"), introducing broker ("IB"), commodity pool operator, commodity trading advisor and leverage transaction merchant), the firm and its principals are subject to a fitness check to determine whether they have previously violated commodities, securities, or criminal statutes or are otherwise subject to statutory disqualification. All principals must submit fingerprints, which are checked with the FBI. Names are checked with the SEC so that derogatory information not disclosed by the firm or its principals will be discovered.

The sales personnel and supervisors of each category of firm listed above must register in the category of associated persons ("APs"). The Commission's regulations require that each applicant for registration as an AP be sponsored by the employing firm, which must screen that person's application and certify that it is accurate and complete to the best of the sponsor's knowledge, information and belief with respect to derogatory information, education and employment history. With respect to floor brokers, the contract market of which the floor broker is a member submits the registration application after a similar screening process. All APs and floor brokers must also submit fingerprint cards and are subject to FBI and SEC checks. APs of FCMs and IBs are also subject to proficiency testing by the National Futures Association ("NFA").

The NFA is generally authorized, pursuant to delegations of authority by the Commission and under Commission oversight, to: (1) perform all registration processing functions under the Act, including granting registration and approving withdrawals from registration; (2) check the fitness of applicants; and (3) conduct proceedings to deny, condition, suspend, restrict or revoke registration for all categories of registrants except floor brokers (the Commission conducts

such proceedings for floor brokers itself). The Commission currently retains sole authority for the processing of registration applications of leverage transaction merchants and their associated persons, but steps are underway to transfer that function to NFA.

Q: 4. A description of the audit trail and how it works.

A: An audit trail is the paper trail for each trade, and how the information contained in that paper trail can be used to reconstruct trading. The audit trail systems employed by the commodity exchanges vary, but generally include:

1) customer order tickets with time-stamps to the nearest minute indicating (a) when the orders reached the exchange floor, and (b) for executed orders, when they were returned to the members' order booth;

2) broker trading cards; and

3) time and sales reports, which indicate price changes to the nearest second.

The Exchanges, through the use of employees in the trading pit, create the time and sales record by recording the times and prices of trades which actually occur. This record of execution prices goes to the general public via vendors within a few seconds, and also is retained by the exchange.

Information from order tickets and trading cards is submitted by members to the exchange and is included on a record the exchange produces, called a trade register. The trade register includes the commodity and month, parties to the trade, price, quantity, and whether the trade was for a member's individual account, the member's firm account, another member on the exchange floor, or a customer. In addition, following a rule change by the Commission in 1986, the trade register also includes the minute in which the trade was executed. The components contained on the trade register are provided to the Commission on a routine basis in both machine readable and hard copy form.

Q: 5. How precise is the time recording of trades in relation to actual trades?

A: Commission regulation 1.35(g) requires that the minute of trade execution be determined for each trade. This one-minute standard is a performance standard which permits exchanges to meet the requirement of the regulation in the manner which best suits the individual markets. The Commission requires that exchanges verify the accuracy of these one-minute times, and incorporate them into the exchange's affirmative compliance program.

The Commission staff has prepared 6 rule enforcement reviews which assess the effectiveness of exchange trade timing systems implemented since the Commission adopted its one-minute performance standard for trade execution times. The exchanges reviewed to date are: Chicago Mercantile Exchange, New York Mercantile Exchange, Commodity Exchange Inc., New York Cotton Exchange, Minneapolis Grain Exchange and Kansas City Board of Trade.

These reports, which represent the initial assessments of these systems, are lengthy and available to the public. We will be happy to excerpt these findings for the Committee's purposes.

#6. Describe the manner in which the system interrelates in keeping track of potential wrongdoing--CFTC, exchanges, and NFA.

The Commission receives information of suspected wrongdoing from a variety of sources--customers, traders, law enforcement agencies, other regulatory agencies, self-regulatory organizations (SRO)--as well as from within the Commission. Depending on the nature of the information the Commission may take any one or more courses of action: it may open an enforcement investigation; it may refer the matter to state or federal criminal authorities; and/or it may notify the SROs. Each of these organizations has its own system for keeping track of these matters.

The Commission and the SROs share information, coordinate their efforts and keep each other informed of significant developments. For instance, the Enforcement Division meets with the NFA on a regular basis to discuss on-going investigations and actions, to share information relating to enforcement matters and to coordinate their efforts. The Commission routinely provides notice to the SROs specifically and to the public generally of enforcement actions it has brought and developments in those actions. The exchanges are specially notified of all trading bans the Commission imposes, and they in turn notify the Commission of all disciplinary actions they take against their members. The NFA routinely provides the Commission with information about and copies of all member responsibility actions and business conduct committee complaints it brings as well as of all final decisions in these actions.

Q.7. What rule does the CFTC follow when there are conflicts between regulation and trade facilitation?

A. Our first priority is to ensure that the U.S. futures exchanges continue to serve as honest, safe and efficient, marketplaces for trading products that satisfy the needs of market users. In short, the Commission's job is to protect market integrity. It is not to promote the business of the exchanges, nor to favor one, or a group of exchanges, over another. That is the the job of the exchanges, themselves. Rather, our commitment is to enforce the Commodity Exchange Act and bring actions against those who commit fraud and other abuses.

Q. 8. Give a comparison of the current budget breakdown and that of 10 years ago. This should be in broad categories such as market surveillance, enforcement, contract markets, proceedings, and executive management.

A. Between FY 1979 and FY 1989, the Commission's expenditures for enforcement activities have increased from approximately 19% to about 26% of the agency's total budget. At the same time, the portion of the budget dedicated to centralized administration and agency direction has declined from about 40% to about 27%. In FY 1989, the Commission is spending about the same percentage of its budget on market surveillance and analysis and on contract market oversight and audit as it did in FY 1979. Approximately 17% of the budget is allocated today to market surveillance and approximately 18% is allocated to oversight and audits. I would note that there have been changes in both the programs and the responsibilities of the Commission which have had the effect of increasing the resources available to these programs. Some activities previously carried out by the Commission such as the registration of commodity professionals and direct audits have been shifted to the National Futures Association. And, our ADP resources which have been dramatically increased have significantly enhanced our surveillance and oversight activities.

Q.9. A general rundown of common definitions by words, phrases and acronyms. A complete rundown is not necessary because Subcommittee members will be given a glossary taken from the FIA textbook, but those which are most likely to be used should be discussed. In addition, some emphasis should be put on those which might be used in more than one way.

A. In addition to the Futures Industry Association Glossary of Trading Terms, available to members, the Commission also has a glossary of terms prepared for the general public. While it is not inclusive and does not provide technical legal definitions, it is useful as a reference point. The National Futures Association also publishes a more concise glossary for the public. We can make copies available if you wish.

10.Q. A description of how a customer's order reaches the floor, what happens to it on the floor, and what happens after it is filled.

Typically, a customer order originates in the office of the customer's broker, either from the customer in person or by a phone call from the customer to the broker. Upon receiving these instructions, the broker is required to prepare an office order, that is a written record of the order, including the customer's account number, which is timestamped. Immediately after the broker receives the order, he is required to transmit it to the floor of the exchange. This transmittal occurs generally by phoning a floor member, but orders also can be sent via teletype. Another order then is prepared on the floor including the account or order number, and is immediately timestamped. This is referred to as the floor order. From the member's booth a runner will take the order to a floor broker in the appropriate pit, who executes it by open outcry according to the instructions on the order. Following execution, the fill information such as price is recorded on the order ticket by the broker, and a runner then returns the order ticket to the member's booth, where it is again time stamped. The fill information later is relayed from the floor member to the customer's broker, who confirms the price to the customer.

Q.11.&12. A description of a trading pit, including a general description of differences that may exist in one exchange and between exchanges.

A. Trading pits or rings are areas designated for open outcry auction markets for futures and options trading. The size, arrangement and facilities of each trading floor may vary among exchanges, but certain features are common or similar.

Most futures pits or rings are octagonal and polygonal pits or rings, with steps descending to the center of each pit. Generally, one pit or ring is devoted to each commodity traded on the exchange. Traders stand in the center of the pit or on the steps or around the waist-high ring according to the contract month of the commodity being traded.

Within or around the pit are exchange-employed market reporters who record every price change as it occurs in the pit. These prices are displayed above the pit or ring to keep traders informed of price movements at their exchange, and at the same time also are sent out to the general public by quotation vendors. Electronic display boards also display price movements at other exchanges where the same or related commodities are traded.

Other sources of information are also available on the floor including newswires, ticker tapes, and cash prices, receipts and shipments of commodities. Through these and other information services traders can obtain a wide array of commodity, business and general news.

Slightly different customs may have developed historically at the different exchanges but the similarities far outweigh minor differences. The Commission regulates by performance criteria and not by mandatory uniformity. All exchange rules, however, are reviewed by the Commission for compliance with the law and regulations.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, February 22, 1989

(Sub) Committee: Cotton, Rice, and Sugar

Public Hearing

met at 10:05 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing Title V of the Food Security Act of 1985, the Upland Cotton Program

The following Members were present:

Mr. Huckaby	Mr. Stangeland	Mr.
Mr. Tallon	Mr. Emerson	Mr.
Mr. Espy	Mr. Combest	Mr.
Mr. Stenholm	Mr. Herger	Mr.
Mr. Sarpalius	Mr. Holloway	Mr.
Mr. Hatcher	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

John Hogan, Minority Counsel
Vernie Hubert, Associate Counsel
Parks Shackelford, Consultant
Paulette Zakrzeski, Minority Consultant
Glenda Temple, Clerk
Anita Brown, Staff Assistant

Witnesses:

1. Mr. Ewen M. Wilson, Assistant Secretary for Economics, U.S. Department of Agriculture, Washington, D.C.

2. Panel:

   Mr. W. Bruce Heiden, President, National Cotton Council, Buckeye, Arizona
   Acc. by: Mr. Gaylon Booker, Senior Vice President, National Cotton Council, Memphis, Tennessee

   Mr. Don Waller, President, Mississippi Farm Bureau, Jackson, Mississippi, testifying on behalf of the American Farm Bureau Federation, Washington, D.C.
   Acc. by: Mr. Don Parrish, Assistant Director, Commodities Division

3. Mr. Jack M. Montgomery, President, American Cotton Shippers Association, Inverness, Mississippi
   Acc. by: Mr. Eduardo C. Esteve, Chairman, Committee on National Affairs, American Cotton Shippers Association, Dallas, Texas

   Mr. Neal Gillen, Vice President and General Counsel, American Cotton Shippers Association, Washington, D.C.

   Mr. Clyde Davidson, Economic Adviser, American Cotton Shippers Association, Memphis, Tennessee

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Wednesday, February 22, 1989
Subcommittee on Cotton, Rice,
and Sugar
Public Hearing
Review Title V of Food
Security Act of 1985, the
Upland Cotton Program

Chairman Huckaby called the meeting to order and made brief opening comments on the need to review the upland cotton program, as changed by the Food Security Act of 1985. Messrs. Stangeland and Tallon also made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 12:50 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, February 22, 1989

~~Sub~~ Committee: Full

Business Meeting

met at 2:00 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering funding level recommendations and budget initiatives for Fiscal Year 1990 for programs within the Committee's jurisdiction; Committee Resolution honoring Chairman de la Garza

The following Members were present:

Mr. de la Garza	Mr. Jontz	Mr. Madigan
Mr. Rose	Mr. Harris	Mr. Coleman
Mr. English	Mr. Campbell	Mr. Roberts
Mr. Huckaby	Mr. Espy	Mr. Emerson
Mr. Glickman	Mr. Sarpalius	Mr. Gunderson
Mr. Stenholm	Mr. Dyson	Mr. Smith
Mr. Volkmer	Mr.	Mr. Grandy
Mr. Tallon	Mr.	Mr. Herger
Mr. Staggers	Mr.	Mr. Walsh
Mr. Olin	Mr.	Mr. Schuette
Mr. Penny	Mr.	Mr.
Mr. Stallings	Mr.	Mr.
Mr. Nagle	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Bert R. Peña, Staff Director
Vernie Hubert, Associate Counsel
Chip Conley, Staff Economist
Chuck Hilty, Minority Staff Director
William O'Conner, Assistant Minority Staff Director
John Hogan, Minority Counsel
Glenda Temple, Clerk
Mary Beth Kaplaniak, Staff Assistant

Witnesses:

None

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Wednesday, February 22, 1989
Full Committee
Business Meeting
Funding level recommendations and budget initiatives for fiscal year 1989; Committee Resolution

Action Taken:

-- Without objection draft letter to Budget Committee approved.

-- Without objection Madigan motion to attach Marlenee letter to budget proposal agreed to.

-- Without objection Stenholm Committee Resolution commending Chairman de la Garza approved.

-- Without objection Stallings request to attach views to budget proposal adopted.

Chairman de la Garza called the meeting to order for the purpose of considering funding level recommendations and budget initiatives for fiscal year 1990 for programs within the Committee's jurisdiction. The Chairman called the attached proposed letter to the Budget Committee to the Members' attention. Discussion occurred and without objection the letter was approved.

Mr. Madigan distributed the attached letter in behalf of Mr. Marlenee and advised that Mr. Marlenee would like to have his letter attached to the budget proposal. Discussion occurred and without objection the request was agreed to.

Chairman de la Garza reported to the Committee on his appearance before the Accounts Subcommittee of the House Administration Committee. He advised that the response was very complimentary to the Agriculture Committee, especially regarding bipartisanship and staff. He advised that the only negative comment concerned Members of the Committee who did not support the Committee Resolution. Mr. Madigan responded on behalf of those who did not support the resolution and advised that those Members did not oppose the Agriculture Committee budget but rather budgets of other Committees.

The Chairman reminded Subcommittee Chairmen to coordinate press releases through the Committee press secretary so as not to duplicate releases.

Wednesday, February 22, 1989
Full Committee
Business Meeting
Funding level recommendations and budget initiatives for fiscal year 1990; Committee Resolution

Mr. Volkmer questioned whether the Committee would work on a 4-5 year farm bill or a one year extension, as suggested by the Senate. The Chairman responded that he favored the 4-5 year approach. Other Members also spoke in favor of long term legislation.

Mr. Stenholm offered the attached Committee Resolution recognizing Chairman de la Garza's award as "Mr. South Texas of 1989". Mr. Roberts, on behalf of the minority Members, spoke in favor of the resolution. Whereupon by a unanimous voice vote the Committee Resolution was adopted.

At 2:35 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

E (KIKA) DE LA GARZA, TEXAS,
CHAIRMAN
WALTER B. JONES, NORTH CAROLINA
DAN JONES, TENNESSEE
GEORGE E. BROWN, JR., CALIFORNIA
CHARLES ROSE, NORTH CAROLINA
GLENN ENGLISH, OKLAHOMA
LEON E. PANETTA, CALIFORNIA
JERRY HUCKABY, LOUISIANA
DAN GLICKMAN, KANSAS
TONY COELHO, CALIFORNIA
CHARLES W. STENHOLM, TEXAS
HAROLD L. VOLKMER, MISSOURI
CHARLES HATCHER, GEORGIA
ROBIN TALLON, SOUTH CAROLINA
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RICHARD H. STALLINGS, IDAHO
DAVID R. NAGLE, IOWA
JIM JONTZ, INDIANA
TIM JOHNSON, SOUTH DAKOTA
CLAUDE HARRIS, ALABAMA
BEN NIGHTHORSE CAMPBELL, COLORADO
MIKE ESPY, MISSISSIPPI
H. MARTIN LANCASTER, NORTH CAROLINA

U.S. House of Representatives
Committee on Agriculture
Room 1301, Longworth House Office Building
Washington, DC 20515

EDWARD R. MADIGAN, ILLINOIS,
RANKING MINORITY MEMBER
JAMES M. JEFFORDS, VERMONT
E. THOMAS COLEMAN, MISSOURI
RON MARLENEE, MONTANA
LARRY J. HOPKINS, KENTUCKY
ARLAN STANGELAND, MINNESOTA
PAT ROBERTS, KANSAS
BILL EMERSON, MISSOURI
SID MORRISON, WASHINGTON
STEVE GUNDERSON, WISCONSIN
TOM LEWIS, FLORIDA
ROBERT F. (BOB) SMITH, OREGON
LARRY COMBEST, TEXAS
BILL SCHUETTE, MICHIGAN
FRED GRANDY, IOWA
SHALLY HERGER, CALIFORNIA
CLYDE C. HOLLOWAY, LOUISIANA

KEPT G. FRAS
STAFF DIRECTOR
BLANNIE POWELL
DEPUTY STAFF DIRECTOR
PHILLIP L. FRAAS
COUNSEL
CHARLES HULTY
MINORITY STAFF DIRECTOR

TELEPHONE
(202) 225-2171

February 22, 1989

The Honorable Leon E. Panetta
Chairman
House Committee on the Budget
Room 214 Annex I
Washington, D.C. 20515

Dear Mr. Chairman:

In compliance with Section 301 of the Congressional Budget Act of 1974, I am transmitting to you the recommendations of the Committee on Agriculture with respect to the fiscal year 1990 budget for the agencies and programs under its jurisdiction.

The Committee on Agriculture supports a continuation in fiscal year 1990 of budget authority at the fiscal year 1989 levels, adjusted for inflation, for all program funding provided by appropriations. Expenditures of the Commodity Credit Corporation, Federal Crop Insurance Program and Farmers Home Administration are recommended at levels consistent with the provisions of the Food Security Act of 1985, as amended, and the Agricultural Credit Act of 1987.

The farm economy is adjusting to the effects of the 1988 drought. Net cash income to farmers is expected to be down $7 billion in 1989 from the year before. Sharply reduced crop production has increased commodity prices, greatly reducing the level of farm price support expenditures from $22 billion in fiscal year 1987 to $12.2 billion in 1988 and to an estimated $12.5 for 1989, including more than $4 billion in disaster assistance to significantly affected producers. The burdensome commodity surpluses of the past three years have been drawn down to make up for most of the production shortfall and have prevented sudden increases in commodity and consumer food prices. Smaller stock levels and strengthening market fundamentals have led to projections of prices higher than pre-drought levels. Consequently, the Congressional Budget Office has projected commodity program outlays to decline to $11.3 billion in 1990, 1 percent of projected federal expenditures.

The Committee must take exception with the budget proposals submitted by President Reagan; those of President Bush, though similar in agriculture, are too general for comment. The unspecified reduction of $1.1 billion in 1990 commodity spending is an unreasonably high 10 percent of the entire outlay level in

a program in which spending has rapidly declined. Not only is this disproportionate when compared with other major programs, it threatens disruption of a delicate recovery of agricultural financial institutions. Having provided assistance to lending institutions just over a year ago, the Committee cannot contemplate reductions of this magnitude without specific knowledge of effects on the value of borrower collateral and repayment ability.

Similarly disturbing is the proposal to reduce direct government programs for rural development. This is an sector that continues in need of assistance. The Committee has been unable to provide the programs to address the rural economy's continuing poor performance, compared to the rest of the country, because of budget constraints. Recommendations to reduce direct Rural Electrification Administration loans $1.9 billion and Farmers Home Administration rural development assistance by $400 million, over 40 percent, are unwarranted.

The Committee believes a good case can be made for permanent funding for Forest Service firefighting activities. However, the proposal to provide the funding by reducing the share of timber receipts paid to states and counties again reflects further neglect for the welfare of rural economies.

The Committee cannot support the Administration's sweeping credit reform initiative without thorough investigation of the explicit changes required and consideration of the long term implications for the affected programs. Also, the proposed collection of increased loan guarantee fees would, in many cases, render the programs unusable to participants.

The Committee on Agriculture recognizes the need to meet the targets of reduced federal deficits set forth in the Gramm-Rudman-Hollings deficit reduction law and will continue its record of cooperation with the Committee on the Budget to reach these goals. However, we feel that the Reagan budget submission unfairly looks to the Department of Agriculture to contribute to deficit reduction: 15 percent of recommended reductions come from the USDA which accounts for only 4 percent of expenditures.

With warm regards, we are

Sincerely,

E (Kika) de la Garza
Chairman

Edward R. Madigan
Ranking Minority Member

RON MARLENEE
MONTANA

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Congress of the United States
House of Representatives
Washington, DC 20515

February 22, 1989

Honorable E. de la Garza, Chairman
House Committee on Agriculture
1301 Longworth House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

I am writing to again express my deep concern regarding the various 1990 budget proposals for agriculture and related activities which come under our committee jurisdiction. In this regard, I must go on record against the "meat-axe mentality" recommendations which have been submitted by those in the Administration who do not have the foggiest notion of the monetary or practical effect of the proposals.

It seems unfortunate that many persons perceive our annual farm price support activities as some sort of gigantic give-away program operated fully at the expense of taxpayers. As you know, nothing could be further from the truth! Not only have we reduced our annual program outlays by some 43% since 1987, but the public is never informed that a significant portion of the remaining $12.5 billion (1989 estimate) will actually be repaid to the Treasury **with interest** by farm producers.

At a time when the new Administration is contemplating significant additional environmental regulations, which will inevitably increase farmers' costs of production, it simulatneously would destroy the income "safety net" in reducing 1990 farm program outlays by about 10-percent from currently projected 1989 levels. **It is obvious that O.M.B. lacks President Bush's vision of a "kinder and gentler America" in a budget which targets agricultural producers and rural America for more than 20% of his 1990 budget's $34.4 billion deficit reduction package.**

Has it become impossible for us to reason logically with those who manipulate the "smoke and mirrors" of present-day budget calculations and projections? Can they not be made to realize that **when the farmgate prices of food and fiber increase significantly** -- whether attributable to additional regulatory burdens, lowered yields due to mandated discontinuance of pesticide and herbicide use, or the simple fact that supplies are reduced because family farmers cannot afford to stay on the land -- **that the costs to the government of providing welfare assistance through the "entitlement" (and COLA-indexed) programs burgeons at an astounding rate?**

COUNTIES

BIG HORN BLAINE CARBON CARTER CASCADE CHOUTEAU CUSTER DANIELS DAWSON FALLON FERGUS GARFIELD GOLDEN VALLEY HILL JUDITH BASIN
LIBERTY MCCONE MEAGHER MUSSELSHELL PETROLEUM PHILLIPS PONDERA POWDER RIVER PRAIRIE RICHLAND ROOSEVELT ROSEBUD
SHERIDAN STILLWATER SWEET GRASS TETON TOOLE TREASURE VALLEY WHEATLAND WIBAUX YELLOWSTONE

Does no one realize that displaced family farmers, and those formerly employed in agribusiness to service and supply them, will soon join the ranks of the urban jobless, homeless, and poor, thus becoming additional "welfare wards" of the Federal government? Can they not see that additional costs of producing domestic food and fiber results in a reduced capacity to compete internationally, thereby increasing our trade deficit?

Mr. Chairman, the men and women of American agriculture desperately want to help resolve the current Federal and trade deficits. At the same time, they want to be treated fairly and with the dignity they justly deserve as hard-working, constructive contributors to the Nation's economic and social fabric. To this end, I pledge my support for you and our other Colleagues on the committee in attempting to negotiate 1990 budget levels which will foster rural revitalization and adequately ensure the survivability of the family farm producer.

Sincerely,

Ron

Ron Marlenee

RM:cnh

CONGRESSMAN RICHARD STALLINGS
FEBRUARY 22, 1989
FUNDING LEVEL RECOMMENDATIONS AND BUDGET INITIATIVES
HOUSE COMMITTEE ON AGRICULTURE

Mr. Chairman, I would like to briefly voice three issues which should be of paramount concern to this committee.

First, as you mentioned in your outline of issues to be addressed in the 101st Congress by this Committee, a rural development initiative should receive very high priority. Our rural areas were virtually left out of any economic recovery in the last several years. Rural businesses are vanishing, stores are closing, schools are losing numbers, health systems are deteriorating.

I have joined Mr. Penny in requesting hearings on this issues as soon as possible. Mr. English has indicated a willingness to do so. I look forward to working with the committee on rural development legislation within the jurisdiction of this Committee; and I feel we must send a strong message to the Budget Committee in this regard.

Second, the reregistration of "minor-use" pesticides, as mandated by the passage of amendments to FIFRA last year, will be the major focus of much of agriculture in the next four to six months. EPA will soon publish a list of pesticide products requiring reregistration. Without an increased level of funding and assistance for research and testing through the IR-4 program, most producers who rely on minor-use pesticides will loose many or most of their pesticides. This MUST be a major focus of this Committee.

Finally, I urge the Committee to focus on the modification of research initiatives at the Agricultural Research Service. We must move to more applied research and less basic research. One of the most obvious needs now is for additional efforts to monitor and control the Russian Wheat Aphid. Texas alone lost over $140 million last year in pesticide treatment costs and crop production losses. Colorado, Idaho, California, Washington, Oregon, Montana, Kansas, and many other western states are facing the potential of epidemic losses to barley and wheat production in the next few years.

These three issues are, in my opinion, the biggest challenges to U.S. agriculture and rural America in the short-term. I urge my colleagues to join in addressing these issues and sending a strong message to the Budget and Appropriations Committees that these are priority issues for this Committee.

Thank you Mr. Chairman.

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

COMMITTEE RESOLUTION

To recognize E (Kika) de la Garza as "Mr. South Texas of 1989."

IN THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON AGRICULTURE

February 22, 1989

Mr. Stenholm introduced the following Committee Resolution

C O M M I T T E E R E S O L U T I O N

WHEREAS, due to his long-recognized lifetime interest in promoting improved international relations with all parts of the developing world--especially, U.S.-Mexican relations, and his service on the U.S.-Mexico Interparliamentary Group, which serves as the principal legislative consultative group between the two countries;

WHEREAS, due to his keen leadership in the field of agriculture, not only as Chairman of the House Committee on Agriculture, but in promoting American agricultural interests throughout the world;

WHEREAS, due to his able leadership and legislative skills in crafting and passing into law important agricultural legislation benefiting all sectors of the agricultural industry, as well as consumers;

WHEREAS, due to his outstanding constituent service, not only to those in the 15th Congressional District of Texas but to all persons in need of a friend;

WHEREAS, due to his contributions and promotion of increased educational opportunities for all Americans regardless of financial or social status;

WHEREAS, due to his efforts to clean up the Rio Grande River and his able negotiating skills in that endeavor, and his work to protect the Texas Gulf Coast's fishing industry; and

WHEREAS, "Mr. South Texas Award" is one of the most prestigious awards given in Texas, and has previously been

bestowed on such distinguished persons as former Texas Governor John Connally, the late Bishop Mariano Garriga, U.S. Federal District Court Judge Reynaldo Garza, and development pioneer Lon C. Hill.

NOW, THEREFORE, BE IT RESOLVED, by the Committee on Agriculture of the House of Representatives of the United States of America in Congress Assembled, That E (Kika) de la Garza is hereby recognized as "Mr. South Texas of 1989", and the Committee applauds and extends its congratulations on this high honor in recognition of his distinguished service not only for his congressional district, but for the entire State of Texas, and the nation.

Approved this 22nd day of February, 1989.

Attest: _____
Staff Director

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, March 1, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing and Business Meeting

met at 10:15 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering H.R. 829, the Wildfire Suppression Assistance Act; and reviewing the Fiscal Year 1990 budget proposal for the Forest Service of the U.S. Department of Agriculture.

The following Members were present:

Mr. Volkmer
Mr. Olin
Mr. Stallings
Mr. Jontz
Mr. Johnson
Mr. Harris
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Morrison
Mr. Marlenee
Mr. Smith
Mr. Schuette
Mr. Herger
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Also Present
Mr. Stenholm
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present
Daniel E. Brinza, Counsel
Vernie Hubert, Assistant Counsel
James R. Lyons, Staff Assistant
Timothy P. DeCoster, Subcommittee Staff Director
Kraig Naasz, Minority Consultant
Jim Davis, Press Secretary
Francie Monaghan, Staff Assistant

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Witnesses:

Mr. George Dunlop, Assistant Secretary for Natural Resources and Environment, Forest Service, U.S. Department of Agriculture, Washington, DC

Mr. F. Dale Robertson, Chief, Forest Service, U.S. Department of Agriculture, Washington, DC

accompanied by:
Mr. George Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, DC

Wednesday, March 1, 1989
Forests, Family Farms, and Energy Subcommittee
Public Hearing and Business Meeting
H.R. 829, the Wildfire Suppression Assistance Act; and Review of the Fiscal Year 1990 budget proposal for the Forest Service of USDA

P U B L I C H E A R I N G

The Subcommittee's first order of business was to take testimony on H.R. 829, to make permanent the authority provided under the Temporary Emergency Wildfire Suppression Act, Public Law 100-428. Before calling upon Assistant Secretary George Dunlop for the Administration's views on H.R. 829, Chairman Volkmer recognized Mr. Marlenee for his opening statement.

B U S I N E S S M E E T I N G

Action Taken:

-- By voice vote H.R. 829 ordered reported to the Full Committee

Following Mr. Dunlop's testimony, at 10:15 a.m., the Subcommittee resolved itself into a business meeting for the consideration of H.R. 829. (Copy of bill and section-by-section analysis attached)

After some discussion, Mr. Marlenee moved the adoption of the bill. There being no objection, the Chairman recommended that the bill be reported to the Full Committee. By a voice vote the motion was agreed to in the presence of a quorum.

P U B L I C H E A R I N G

Following the brief business meeting, at 10:30 a.m., the Subcommittee proceeded to hold its scheduled public hearing on review of the Fiscal Year 1990 budget proposal for the Forest Service of the Department of Agriculture. The witnesses listed on page 2 of these minutes were recognized for their prepared statements and were then questioned by Members of the Subcommittee.

During the proceedings Mr. Harris shared the duties of the Chair with Mr. Volkmer. After brief closing remarks, Mr. Volkmer announced that the hearing record would remain open for about two weeks to receive additional information requested on the budget proposal. The hearing was then adjourned at 12:20 p.m., subject to the call of the Chair.

Francie Monaghan
Francie Monaghan

101ST CONGRESS
1ST SESSION

H. R. 829

To make permanent the authority provided under the Temporary Emergency Wildfire Suppression Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1989

Mr. VOLKMER (for himself, Mr. MORRISON of Washington, Mr. AUCOIN, Mr. DEFAZIO, Mr. HERGER, Mr. LEHMAN of California, Mr. SCHUETTE, Mr. ROBERT F. SMITH, and Mr. VENTO) introduced the following bill; which was referred jointly to the Committees on Agriculture, Foreign Affairs, and Interior and Insular Affairs

---

A BILL

To make permanent the authority provided under the Temporary Emergency Wildfire Suppression Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wildfire Suppression Assistance Act".

SEC. 2. PERMANENT AUTHORITY.

The Temporary Emergency Wildfire Suppression Act (Public Law 100–428) is amended by repealing section 5.

SECTION-BY-SECTION ANALYSIS OF

H.R. 829

Section 1--Short Title

Section 1 will provide that the bill may be cited as the "Wildfire Suppression Assistance Act".

Section 2--Permanent Authority

Section 2 will repeal section 5 of the Temporary Emergency Wildfire Suppression Act to make permanent the authority provided under the Act.

Under current law, section 5 of the Temporary Emergency Wildfire Suppression Act provides that the authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), terminates on December 31, 1988.

(Note: Section 3(a) of the Temporary Emergency Wildfire Suppression Act authorizes the Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, to enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

Section 3(b) of the Temporary Emergency Wildfire Suppression Act authorizes the Secretary of Agriculture or the Secretary of the Interior, in the absence of any agreement authorized under section 3(a) of the Act, to furnish emergency wildfire protection resources to any foreign nation when the furnishing of these resources is determined by such Secretary to be in the best interest of the United States, and to accept emergency wildfire protection resources from any foreign fire organization when the acceptance of these resources is determined by such Secretary to be in the best interest of the United States.

Section 3(c) of the Temporary Emergency Wildfire Suppression Act authorizes the reimbursement for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under the Memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982, and the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982, notwithstanding the provisions of section 3(a) or 3(b) of the Act.)

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, March 1, 1989

(Sub) Committee: Tobacco and Peanuts

Public Hearing

met at 1:07 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of Continuing the review of the U.S. Department of Agriculture's change in procedure concerning sales of commodities through the Export Credit Guarantee Program and the Intermediate Export Credit Program.

The following Members were present:

Mr. Pose	Mr. Hopkins	Mr.
Mr. Hatcher	Mr.	Mr.
Mr. English	Mr.	Mr.
Mr. Tallon	Mr.	Mr.
Mr. Lancaster	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present:
Dan Brinza, Counsel
Vernie Hubert, Assistant Counsel
Jim Davis, Press Secretary
Margaret Huessy, Minority Consultant
Kathy Hughes, Staff Assistant
Mary Beth Kaplaniak, Staff Assistant
Heidi Pender, Subcommittee Counsel
Joan Teague Rose, Staff Assistant
Cristy Scott, Staff Assistant

Witnesses:

1. Mr. James R. Ebbitt, Assistant Inspector General for Audit, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C.

   Accompanied by: Mr. Craig L. Beauchamp, Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C.

   Mr. Richard D. Long, Deputy Assistant Inspector General for Audit, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C.

2. Mr. Allan I. Mendelowitz, Senior Associate Director, National Security and International Affairs Division, General Accounting Office, Washington, D.C.

   Accompanied by: Mr. Phillip Thomas, Group Director, National Security and International Affairs Division, General Accounting Office, Washington, D.C.

Wednesday, March 1, 1989
Tobacco and Peanuts
Subcommittee
Public Hearing
Continuation of the review
of USDA's change in
procedure concerning sales
of commodities through the
CCC's export credit guaran-
tee programs

Chairman Rose called the meeting to order to hear testimony on the continuing review of the Foreign Agricultural Service's administration of the Commodity Credit Corporation's export credit guarantee programs. After brief opening remarks by Mr. Rose, Mr. Hopkins, and Mr. Tallon, the witnesses on page two of these minutes were recognized for their prepared statements. The witnesses were then questioned by Subcommittee members.

After concluding remarks by Chairman Rose, the hearing was adjourned at 2:33 p.m., subject to the call of the Chair.

Kathy Hughes

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, March 2, 1989

(Sub) Committee Department Operations, Research, and Foreign Agriculture

Public Hearing

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the Environmental Protection Agency's Pesticide Regulatory Program.

The following Members were present:

Mr. Brown	Mr. Roberts	Mr.
Mr. Glickman	Mr. Morrison	Mr.
Mr. Hatcher	Mr. Grandy	Mr.
Mr. Olin	Mr. Walsh	Mr.
Mr. Volkmer	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.

Staff Present
Daniel E. Brinza, Counsel
Vernie Hubert, Assistant Counsel
John E. Hogan, Minority Counsel
William E. O'Conner, Jr., Assistant Minority Staff Director
Jim Davis, Press Secretary
William A. Stiles, Jr., Subcommittee Staff Director
James Dyons, Staff Assistant
John J. Aguirre, Minority Consultant
Francie Monaghan, Staff Assistant
Mary Beth Kaplaniak, Staff Assistant

Witnesses:

1. Honorable Richard Stallings, Member of Congress from Idaho

2. Dr. John Moore, Acting Deputy Administrator, Environmental Protection Agency, Washington, D.C.

Thursday, March 2, 1989
Subcommittee on Department
Operations, Research, and
Foreign Agriculture
Public Hearing
Environmental Protection
Agency's pesticide
regulatory program

Chairman Brown called the meeting to order at 10:10 a.m. to review the Environmental Protection Agency's pesticide regulatory program. After brief opening remarks by Mr. Brown, Mr. Roberts, Mr. Grandy, Mr. Olin, and Mr. de la Graza, the witnesses on page two of these minutes were recognized for their prepared statements. The witnesses were then questioned by the Subcommittee members.

After concluding remarks by Chairman Brown, the hearing was adjourned at 12:05 p.m., subject to the call of the Chair.

Mary Beth Kaplaniak

Mary Beth Kaplaniak

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, March 8, 1989

(Sub) Committee: Full

Business Meeting

met at 10:15 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 829, the Wildfire Suppression Assistance Act; and H.J.Res. 124, a resolution recognizing the 75th anniversary of the Smith-Lever Act establishing State Cooperative Extension Services

The following Members were present:

Mr. English
Mr. Huckaby
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Tallon
Mr. Staggers
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Jontz
Mr. Johnson
Mr. Harris

Mr. Espy
Mr. Sarpalius
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Smith
Mr. Schuette
Mr. Herger
Mr. Holloway
Mr. Walsh
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:
Dan Brinza, Counsel
Vernie Hubert, Associate Counsel
John Hogan, Minority Counsel
Glenda Temple, Clerk
Tim DeCoster, Subcommittee Staff Director
Kraig Naasz, Minority Consultant
Francie Monaghan, Staff Assistant
Jim Lyons, Staff Assistant
Mary Beth Kaplaniak, Staff Assistant

Witnesses:

None

Wednesday, March 8, 1989
Full Committee
Business Meeting
H.R. 829, Wildfire Suppression Assistance Act; H.J.Res. 124, 75th Anniversary of Smith-Lever Act Establishing State Cooperative Extension Services

Action Taken:

-- By voice vote H.R. 829 ordered reported to the House.

-- By voice vote H.J.Res. 124 ordered reported to the House.

Acting Chairman Volkmer called the meeting to order for the purpose of considering H.R. 829, a bill to make permanent the authority provided under the Temporary Emergency Wildfire Suppression Act, and H.J.Res. 124, a joint resolution recognizing the seventy-fifth anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State Cooperative Extension Services.

Mr. Volkmer explained the provisions of H.R. 829, the Wildfire Suppression Assistance Act. (See attached copy of bill, statement and explanation.) Mr. Morrison, the Ranking Minority Member of the Subcommittee also spoke in favor of the legislation (see attached). Mr. Morrison moved that H.R. 829 be ordered favorably reported to the House. By a voice vote the motion was agreed to in the presence of a quorum.

Acting Chairman Volkmer called the Members' attention to H.J.Res. 124, a joint resolution to recognize the seventy-fifth anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State Cooperative Extension Services. (See attached copy of resolution and explanation.) Mr. Madigan moved that the joint resolution be ordered favorably reported to the House. By a voice vote the motion was approved in the presence of a quorum.

At 10:20 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

SECTION-BY-SECTION ANALYSIS OF

H.R. 829

Section 1--Short Title

Section 1 will provide that the bill may be cited as the "Wildfire Suppression Assistance Act".

Section 2--Permanent Authority

Section 2 will repeal section 5 of the Temporary Emergency Wildfire Suppression Act (P. L. 100-428, 42 U.S.C. 1856a note) to make permanent the authority provided under that Act.

Under current law, section 5 of the Temporary Emergency Wildfire Suppression Act provides that the authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), terminates on December 31, 1988.

(Note: Section 3(a) of the Temporary Emergency Wildfire Suppression Act authorizes the Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, to enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

Section 3(b) of the Temporary Emergency Wildfire Suppression Act authorizes the Secretary of Agriculture or the Secretary of the Interior, in the absence of any agreement authorized under section 3(a) of the Act, to furnish emergency wildfire protection resources to any foreign nation when the furnishing of these resources is determined by such Secretary to be in the best interest of the United States, and to accept emergency wildfire protection resources from any foreign fire organization when the acceptance of these resources is determined by such Secretary to be in the best interest of the United States.

Section 3(c) of the Temporary Emergency Wildfire Suppression Act authorizes the reimbursement for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire protection resources to the Government of the United States under the Memorandum entitled "Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs" dated June 25, 1982, and the arrangement entitled "Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America" dated May 4, 1982, notwithstanding the provisions of section 3(a) or 3(b) of the Act.)

HONORABLE HAROLD L. VOLKMER

H.R. 829

The measure pending before us today, H.R. 829, is essentially the same as the final version of a bill I sponsored last year which was considered and approved by this Committee and passed the House in the waning days of the session but which was not considered in the Senate.

Working with the Forest Service and the Department of Agriculture last year, we drafted legislation (H.R. 4936) to authorize the use, under certain conditions, of funds available for firefighting on federal lands to reimburse foreign organizations for assistance in suppressing wildfires. In particular, the agency sought the authority in order to enlist the use of specialized aircraft from Canada to battle expected fires in the drought-stricken western United States.

We hoped to have this authority to the Agriculture and Interior Departments by the middle of summer last year, but the legislation was bogged down for a while. As the severity of the fires increased, Members of this Committee with your leadership, Mr. Chairman, worked with others in the House and Senate and the administration and developed a measure, patterned after H.R. 4936, to provide this important authority on a temporary basis. This bill was enacted into law and utilized to some extent by the Administration. The authorities provided in that Act expired on December 31, 1988.

H.R. 829 would make permanent the authorities provided under the Temporary Emergency Wildfire Suppression Act.

It is my intention to again seek the assistance of other interested Committees in expediting consideration of this bill so that the agencies which must prepare for this year's fire season will know early on whether they can count on this additional authority.

H.R. 829 was endorsed by the Administration in testimony before our Subcommittee last week, and I urge the Committee to approve the bill.

STATEMENT OF
THE HONORABLE SID MORRISON
CONCERNING H.R. 829
A BILL TO MAKE PERMANENT
"THE TEMPORARY EMERGENCY WILDFIRE SUPPRESSION ACT"

MARCH 8, 1989

Mr. Chairman, I wish to thank you for recognizing the importance of this legislation and for bringing this measure before the full Committee in such a timely manner. I am delighted to join Mr. Volkmer in cosponsorship of this important legislation to make permanent the authroity provided under the Temporary Emergency Wildfire Suppression Act.

As you know, this act authorized the Secretary of Agriculture and the Secretary of te Interior to enter into reciprocal agreements with any foreign fire organization for mutual aid in wildfire protection and suppression. This authority expired on December 31, 1988.

H.R. 829, by simply removing the December 31, 1988 termination date, would make this important authority permanent. I should also point out that this legislation has the full support of the Administration.

Mr. Chairman, I would like to again thank you for bringing this legislation before the Committee and am hopeful that we can move H.R. 829 to the floor in an equally expeditious manner, so that this authority will be restored before the 1989 fire season begins.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

March 7 1989

Honorable E (Kika) de la Garza
Chairman, Committee on Agriculture
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As you requested, here is our report on H.R. 829, a bill "To make permanent the authority provided under the Temporary Emergency Wildfire Suppression Act."

The Department of Agriculture strongly recommends the enactment of H.R. 829.

H.R. 829 would repeal section 5 of the Temporary Emergency Wildfire Suppression Act (Public Law 100-428). The effect would be to permanently authorize the Secretary of Agriculture and the Secretary of the Interior to enter into reciprocal agreements with any foreign fire organization for mutual aid in wildfire protection. These agreements could include the reimbursement of foreign fire organizations for costs they incur while providing personnel, supplies, and equipment for presuppression and/or suppression activities on Federal lands and on State and private lands protected by these Federal agencies. All agreements would be required to include a waiver of liability for compensation for any loss or damage to equipment, and for any personal injury or death occurring in the performance of such agreements. Reimbursement to foreign governments for fire assistance would be permitted only if the Secretary of Agriculture or the Secretary of the Interior determined that no fire organization or personnel within the United States was reasonably available to provide wildfire protection resources.

At present, the Forest Service renders firefighting assistance to Canadian provinces under two separate agreements. The primary agreement is an arrangement between the United States and Canada, dated May 4, 1982, that provides for reciprocal firefighting assistance. The second agreement is a Memorandum of Understanding between the Department of Agriculture and Environment Canada, signed on June 25, 1982, which provides for mutual assistance in program planning, program operation (including emergency fire situations), and the sharing of information; however, neither agreement has been ratified by the Congress. Neither agreement provides authority to reimburse Canada for wildfire assistance on Federal lands outside of the vicinity of a Federal installation. To provide authority to make such reimbursements is the purpose of the proposed legislation.

In response to the extreme wildfire situation in the Greater Yellowstone Area and other parts of the West during July and August 1988, the 100th Congress enacted the Temporary Emergency Wildfire Suppression Act (Public Law 100-428). The act authorized the Secretary of Agriculture and the Secretary of the Interior to enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection in the United States and to reimburse foreign fire organizations for their assistance. Assistance from Canada was reimbursed under this temporary authority to fight the fires in the Greater Yellowstone Area. This authority expired on December 31, 1988. The need for foreign firefighting resources is a recurring one whenever catastrophic wildfires require the commitment of all available Federal and State forces. H.R. 829 would amend Public Law 100-428 by repealing section 5 which provided for a termination date of December 31, 1988. No other changes would be made, thus the effect of H.R. 829 would be to provide permanent authority to reimburse Canadian or other foreign firefighting resources for assistance they provide during future catastrophic wildfire emergencies when all available Federal and State forces are committed.

No additional appropriations or outlays would be required. Forest Firefighting Funds (FFF) would be used for this purpose in the same manner as they are now used to pay Federal agency costs.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CLAYTON YEUTTER
Secretary

IA

101ST CONGRESS
1ST SESSION

H. J. RES. 124

To recognize the seventy-fifth anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State Cooperative Extension Services.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1989

Mr. TRAXLER (for himself, Mr. DE LA GARZA, Mr. MADIGAN, Mr. WHITTEN, Mrs. SMITH of Nebraska, Mr. BROWN of California, and Mr. ROBERTS) introduced the following joint resolution; which was referred to the Committee on Agriculture

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JOINT RESOLUTION

To recognize the seventy-fifth anniversary of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's system of State Cooperative Extension Services.

Whereas the Act of May 8, 1914, (38 Stat. 372) as amended, commonly known as the Smith-Lever Act of 1914, has fostered through the United States Department of Agriculture the development of a system of State Cooperative Extension Services in conjunction with our Nation's land-grant colleges and universities which disseminates and encourages the application of research-generated knowledge and leadership techniques to individuals, families and communities;

Whereas the Smith-Lever Act of 1914 has contributed greatly in assisting American farm families with the efficient pro-

duction of a reliable supply of food and fiber for consumers in this country and worldwide;

Whereas the Cooperative Extension System has done much to help rural and urban adults and youth help themselves as they have steadily improved their quality of life and leadership ability; and

Whereas the relationship existing between the Federal, State and county extension services has provided for citizen input to research and educational programs of USDA and the land-grant universities for three quarters of a century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the Cooperative Extension System should continue to be supported as an important investment in the Nation's future, and that the seventy-fifth anniversary of the enactment of the Smith-Lever Act of 1914 should be commemorated on May 8, 1989.

SEC. 2. The President is authorized and requested to issue a proclamation commemorating the enactment of the Smith-Lever Act of May 8, 1914, and its role in establishing our Nation's Cooperative Extension System.

SECTION-BY SECTION ANALYSIS

OF H. J. RES. 124

The joint resolution consists of a preamble and two sections following the resolving clause.

Preamble

In its preamble, the joint resolution makes a number of findings relating to the purposes for the resolution as follows:

(1) that the Smith-Lever Act of 1914, has fostered through the United States Department of Agriculture the development of a system of State Cooperative Extension Services in conjunction with our Nation's land-grant colleges and universities which disseminates and encourages the application of research-generated knowledge and leadership techniques to individuals, families and communities;

(2) that the Smith-Lever Act of 1914 has contributed greatly in assisting American farm families with the efficient production of a reliable supply of food and fiber for consumers in this country and worldwide;

(3) that the Cooperative Extension System has done much to help rural and urban adults and youth help themselves as they have steadily improved their quality of life and leadership ability; and

(4) that the relationship existing between the Federal, State and county extension services has provided for citizen input to research and educational programs of the United States Department of Agriculture and the land-grant universities for three quarters of a century.

Section 1--Sense of Congress

Section 1 expresses the sense of Congress that the Cooperative Extension System should continue to be supported as an important investment in the Nation's future, and that the seventy-fifth anniversary of the enactment of the Smith-Lever Act of 1914 should be commemorated on May 8, 1989.

Section 2--Proclamation

Section 2 authorizes and requests the President to issue a proclamation commemorating the enactment of the Smith-Lever Act of May 8, 1914, and its role in establishing the Nation's Cooperative Extension System.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date: Wednesday, March 15, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 9:40 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing H.R. 1011, a bill to create a National Commission on Natural Resources Disasters; and H.R. 1368, a bill relating to the management of the Tongass National Forest, and related legislative proposals

The following Members were present:

Mr. Volkmer
Mr. Olin
Mr. Stallings
Mr. Jontz
Mr. Johnson
Mr. Harris
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.
Mr.

Mr. Morrison
Mr. Marlenee
Mr. Smith
Mr. Schuette
Mr. Herger
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Young (Alaska)
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

John Hogan, Minority Counsel
Fred Clark, Staff Assistant
Vernie Hubert, Associate Counsel
Glenda Temple, Clerk
Bert Peña, Staff Director
Kraig Naasz, Minority Consultant
Tim DeCoster, Subcommittee Staff Director
Jim Lyons, Staff Assistant

Witnesses:

H.R. 1011

1. Hon. Wally Herger, Member of Congress from California

2. Mr. George M. Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, DC

H.R. 1368

3. Hon. Don Young, Member of Congress from Alaska

4. Panel

Mr. Virgil Soderberg, President, Alaska Loggers Association, Juneau, Alaska
Acc. by: Mr. Steve Silver, Counsel to Alaska Loggers Association, Washington, DC

Mr. Martin R. Pihl, President and General Manager, Ketchikan Pulp Company, Ketchikan, Alaska
Acc. by: Mr. Owen Graham, Logging Manager, Ketchikan Pulp Company, Ketchikan, Alaska
Mr. Steven Lambert, Hopkins, Sutter, Hamel & Park, Washington, DC

Mr. Kent S. Robinson, Policy and Programs Analyst, Public Timber Program, National Forests Products Association, Washington, DC

Mr. George A. Craig, Registered Professional Forester, Oakland, California, in behalf of Alaska Pulp Corporation, Sitka, Alaska

Mr. William A. Thomas, Jr., on behalf of Klukwan, Inc. and Klukwan Forest Products, Inc., Klukwan, Alaska

5. Panel

Mr. K. J. Metcalf, Vice President, Southeast Alaska Conservation Council, Juneau, Alaska
Acc. by: Mr. Steve Kallick, Staff Attorney, Southeast Alaska Conservation Council, Juneau, Alaska

Mr. Joseph R. Mehrkens, Southeast Alaska Natural Resources Center, Juneau, Alaska

Ms. Frances A. Hunt, Forestry Resource Specialist, Division of Public Lands and Energy, National Wildlife Federation, Washington, DC

Wednesday, March 15, 1989
Subcommittee on Forests,
Family Farms, and Energy
Public Hearing
National Commission on Natural
Resources Disasters; Tongass
National Forest management
H.R. 1011; H.R. 1368

Witnesses Continued:

6. Panel

Mr. Eric S. Laschever, Special Assistant to Governor Steve Cowper for the Tongass National Forest, Alaska Governor's Office, Washington, DC

Dr. David A. Anderson, Southeast Regional Supervisor for the Division of Wildlife Conservation, Alaska Department of Fish and Game, Juneau, Alaska

7. Mr. George M. Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, DC
Acc. by: Mr. Mike Barton, Regional Forester, Alaska Region

Statements Submitted for the Record:

1. Hon. Ron Marlenee, Member of Congress from Montana

2. Hon. Gaylord Nelson, former Senator from Wisconsin, on behalf of the Wilderness Society, 1400 Eye Street, NW, Washington, DC

3. Mr. James P. Senna, President and Chief Executive Officer, Shee Atika Inc., Box 1949, Sitka, Alaska 99835

4. Legal and Financial Implications of Proposed Legislative Termination of Long-term Timber Cutting Contracts in the Tongass National Forest, Alaska, by Hamel & Park, 888 16th Street, NW, Washington, DC 20006

5. Letter from Hon. Clayton Yeutter, Secretary, Department of Agriculture, Washington, DC, submitted by Hon. Ron Marlenee

6. Mr. William J. Holman, Box 5972, Ketchikan, Alaska 99901

7. Mr. David Palmer, Executive Assistant to the Mayor, City of Craig, Box 23, Craig, Alaska 99921

Wednesday, March 15, 1989
Subcommittee on Forests,
Family Farms, and Energy
Public Hearing
National Commission on
Natural Resources Disasters;
Tongass National Forest
management
H.R. 1011; H.R. 1348

Statements Submitted for the Record Continued:

8. Hon. Adrian LeCornu, Mayor, City of Hydaburg, Box 49, Hydaburg, Alaska 99922

9. Hon. Roy S. Williams, Mayor, Klawock, Alaska

10. Hon. Harry A. Davidson, Mayor, City of Pelican, Box 757, Pelican, Alaska 99832

11. Hon. Robert P. Wagner, Mayor, City of Tenakee Springs, Box 52, Tenakee Springs, Alaska 99841

12. Hon. Larry Powell, Mayor, City of Yakutat, Box 6, Yakutat, Alaska 99689

13. Mr. Donald Hernandez, Chairman, Point Baker Community Association, Box 31, Point Baker, Alaska 99927

14. City and Borough of Sitka, 304 Lake Street, Sitka, Alaska 99835

15. Mr. Jim Bacon, United Fishermen of Alaska, 175 S. Franklin, Juneau, Alaska 99801

16. Southeast Conference, Box 22286, Juneau, Alaska 99802

17. Mr. Earl E. Krygier, Executive Director, Alaska Trollers Assn., 130 Seward Street, No. 213, Juneau, Alaska 99801

18. Ms. Fern Neimeyer, Mayor, City of Wrangell, Box 531, Wrangell, Alaska 99929

19. Mr. Paul Johnson, Chairman, Elfin Cove Fish & Game Advisory Committee, Elfin Cove, Alaska 99825

20. Hon. Edward Gamble, Mayor, City of Angoon, Box 189, Angoon, Alaska 99820

21. Hon. Bert Bergman, Board President, Edna Bay Community, Edna Bay, Alaska

Wednesday, March 15, 1989
Subcommittee on Forests,
Family Farms, and Energy
Public Hearing
National Commission on
Natural Resources Disasters;
Tongass National Forest
management
H.R. 1011; H.R. 1368

Statements Submitted for the Record Continued:

22. Gustavus Community Association, Box 62, Gustavus, Alaska 99826

23. Hon. Miles N. Murphy, Jr., Mayor, Hoonah, Alaska

24. Mr. Robert T. Baade, Mayor, Kupreanof, Alaska

25. Hon. Paul Young, Mayor, City of Port Alexander, Box 725, Port Alexander, Alaska 99836

26. Chairman, Community of Port Protection, Alaska

27. Hon. Estelle Thompson, City of Kasaan, Alaska 99924

28. Mr. Michael J. O'Connell, Mt. Bether Bible Center at Game Creek, Inc., Box 95, Hoonah, Alaska 99829

Chairman Volkmer called the hearing to order and both he and Mr. Morrison, the Ranking Minority Member of the Subcommittee, made brief opening comments on the two bills being reviewed by the Subcommittee. The witnesses listed above were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings Messrs. Stallings and Olin assisted with the chairing responsibilities. At 3:35 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, March 16, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the fiscal year 1990 budget proposals for wheat, soybeans, and feed grains programs

The following Members were present:

Mr.	Glickman	Mr.	Marlenee	Mr.	
Mr.	Johnson	Mr.	Roberts	Mr.	
Mr.	Volkmer	Mr.	Smith	Mr.	
Mr.	Penny	Mr.	Schuette	Mr.	
Mr.	Nagle	Mr.	Grandy	Mr.	
Mr.	Jontz	Mr.		Mr.	
Mr.	Campbell	Mr.		Mr.	
Mr.	Dyson	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	
				Mr.	
				Mr.	

Staff present:
Vernie Hubert, Associate Counsel
Glenda Temple, Clerk
Greg Frazier, Subcommittee Staff Director
Cliff Humphrey, Minority Consultant
Howard Conley, Staff Economist
John Hogan, Minority Counsel
Jim Davis, Press Secretary

Witnesses:

1. Mr. William C. Bailey, Deputy Under Secretary, International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C.

2. Dr. Abner W. Womack, Co-Director, Center for National Food and Agricultural Policy, University of Missouri, Columbia, Missouri

Statements Submitted for the Record:

1. Hon. Ron Marlenee, Member of Congress from Montana

Thursday, March 16, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Hearing
Review of fy 1990 budget
proposals for wheat,
soybeans, and feed grains
programs

Chairman Glickman called the meeting to order for the purpose of reviewing the Administration's proposals for fiscal year 1990 spending for wheat, soybeans, and feed grains programs. He made a brief opening statement on the hearing and the Subcommittee's agenda for the 101st Congress. In addition, opening comments were made by Messrs. Roberts, Volkmer, Jontz, Grandy, and Dyson.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 11:30 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, March 23, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing implementation of the 1988 Disaster Assistance Act and related issues

The following Members were present:

Mr.	Glickman	Mr.	Marlenee	Mr.	
Mr.	Johnson	Mr.	Stangeland	Mr.	
Mr.	Volkmer	Mr.	Roberts	Mr.	
Mr.	Penny	Mr.	Emerson	Mr.	
Mr.	Sarpalius	Mr.	Smith	Mr.	
Mr.	Jontz	Mr.	Schuette	Mr.	
Mr.	Campbell	Mr.	Grandy	Mr.	
Mr.	Dyson	Mr.		Mr.	
Mr.	de la Garza	Mr.		Mr.	
Mr.	ex officio	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	
				Mr.	
				Mr.	

Staff present:
Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Vernie Hubert, Associate Counsel
Joe Muldoon, Assistant Counsel
Greg Frazier, Subcommittee Staff Director
Cliff Humphrey, Minority Consultant
Glenda Temple, Clerk
Jim Davis, Press Secretary

Witnesses:

1. Mr. Milton Hertz, Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Thomas A. vonGarlem, Assistant Deputy Administrator, State and County Operations, ASCS
   Mr. Jerry Newcomb, Director, Emergency Operations and Livestock Programs Division, ASCS

2. Panel:

   Mr. Ron Rivinius, Secretary-Treasurer, National Association of Wheat Growers, Elgin, North Dakota

   Mr. Bill Nelson, Executive Vice President, Texas Wheat Producers Association and Production Board, Amarillo, Texas

3. Panel:

   Mr. G. Chandler Keys III, Director, Congressional Relations, National Cattlemen's Association, Washington, D.C.

   Mr. Steve Kopperud, Vice President for Legislation, American Feed Industry Association, Arlington, Virginia

   Mr. Don Gingerich, President, National Pork Producers Council, Parnell, Iowa

Statements Submitted for the Record:

1. Statement by Hon. Bob Dole and Hon. Nancy Kassebaum, United States Senators from Kansas

2. Hon. Pat Roberts, Member of Congress from Kansas

Thursday, March 23, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Hearing
Implementation of Disaster
Assistance Act of 1988

Chairman Glickman called the meeting to order and made brief opening comments on the need for the Subcommittee to review implementation of the Disaster Assistance Act of 1988 and related matters. Opening remarks were also made by the following: Messrs. de la Garza, Stangeland, Volkmer, Roberts, Sarpalius, Smith, Grandy, and Johnson.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

Chairman Glickman advised that due to the votes on the House floor Members could submit questions in writing, and he asked the Department to respond prior to the next Subcommittee hearing scheduled for April 6.

During the proceedings recesses were taken at 10:10 a.m. and 11:55 a.m. to enable Members to respond to recorded votes on the House floor. Mr. Volkmer assisted with the chairing responsibilities. At 1:25 p.m. the meeting was adjourned, to reconvene on April 6 to review complaints of aflatoxin in the corn crop and related issues.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, April 4, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 9:30 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the incidence of aflatoxin in the 1988 corn crop

The following Members were present:

Mr. Glickman
Mr. Johnson
Mr. English
Mr. Volkmer
Mr. Penny
Mr. Sarpalius
Mr. Jontz
Mr.
Mr.
Mr.
Mr.
Mr.
Mr. Marlenee
Mr. Roberts
Mr. Schuette
Mr. Grandy
Mr.
Mr.
Mr.
Mr.
Mr.

Witnesses:

1. Mr. W. Kirk Miller, Administrator, Federal Grain Inspection Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Steven Tanner, Assistant to the Administrator for Technology, FGIS
   Mr. David Orr, Deputy Director, FGIS
   Mr. Jim Bair, Confidential Assistant to the Administrator, FGIS

2. Panel:

   Dr. Steven R. Tannenbaum, Professor of Chemistry and Toxicology, Massachusetts Institute of Technology, Cambridge, Massachusetts

   Dr. David Livingston, Harvard Medical School and Consultant to Vicam, Inc., Cambridge, Massachusetts
   Acc. by: Dr. Thomsen J. Hansen, Vicam, Somerville, Massachusetts

   Mr. Leonard Stoloff, Consultant, Silver Spring, Maryland

   Mr. Rodney E. Leonard, Executive Director, Community Nutrition Institute, Washington, D.C.

3. Panel:

   Mr. Lyle S. Kuhlmann, President, Byron Elevators, Byron, Minnesota

   Mr. James Rutledge, Vice President for Food Protection Services, Lauhoff Milling Division, Bunge Corporation, Danville, Illinois

   Acc. by: Mr. Randy Gordon, Vice President for Government Affairs and Communications, National Grain and Feed Association, Washington, D.C.

   Mr. Kyd D. Brenner, Director of Public Affairs, Corn Refiners Association, Inc., Washington, D.C.

Statements Submitted for the Record:

1. Hon. Ron Marlenee, Member of Congress from Montana

2. FDA Talk Paper, Food and Drug Administration, U.S. Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Rockville, Maryland 20851--Submitted by Mr. Miller, USDA

3. The Green Sheet, Newsletter of the Iowa Corn Growers Association, 1200 35th Street, Suite 306, West Des Moines, Iowa 50265 -- Submitted by Mr. Grandy.

Tuesday, April 4, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Hearing
Review incidence of aflatoxin
in 1988 corn crop

Chairman Glickman called the meeting to order for the purpose of reviewing reports of the incidence of aflatoxin in the 1988 corn crop due to drought. Mr. Glickman made opening comments as did Messrs. Roberts and Grandy.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The following special introduction was made: Mr. Penny--Mr. Kuhlman and Mr. Rutledge.

At 12:50 p.m. the meeting was adjourned to reconvene at 10:00 a.m. on Thursday, April 6, to review the outlook for the 1989 wheat crop and related issues.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, April 5, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing and Business Meeting

met at 10:30 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing and considering two pending watershed projects for Upper Locust Creek Watershed in Missouri and Iowa, and Howard Creek Watershed in West Virginia

The following Members were present:

Mr.	English	Mr.	Coleman	Mr.
Mr.	Tallon	Mr.	Morrison	Mr.
Mr.	Penny	Mr.	Grandy	Mr.
Mr.	Stallings	Mr.	Holloway	Mr.
Mr.	Nagle	Mr.		Mr.
Mr.	Jontz	Mr.		Mr.
Mr.	Harris	Mr.		Mr.
Mr.	Staggers	Mr.		Mr.
Mr.	Sarpalius	Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
				Mr.
				Mr.
				Mr.
				Mr.
				Mr.

Staff present:
Dan Brinza, Counsel
Joe Muldoon, Assistant Counsel
John Hogan, Minority Counsel
Bill Cherry, Subcommittee Staff Director
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk
Jim McDonald, Staff Assistant
Jim Lyons, Staff Assistant

Witnesses:

1. Hon. John H. Bowling, Jr., Mayor, White Sulphur Springs, West Virginia

2. Mr. Galen S. Bridge, Deputy Chief for Programs, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Ronald Ward, Watershed Planning Coordinator, Watershed Projects Division, Soil Conservation Service, USDA

Statements Submitted for the Record:

1. Hon. Tom Coleman, Member of Congress from Missouri

Wednesday, April 5, 1989
Subcommittee on Conservation, Credit, and Rural Development
Public Hearing and Business Meeting
Pending Watershed Projects

Chairman English called the meeting to order to review and consider two pending watershed projects for Upper Locust Creek Watershed in Missouri and Iowa, and Howard Creek Watershed in West Virginia. Mr. English made opening comments as did Mr. Coleman, the Ranking Minority Member of the Subcommittee.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

B U S I N E S S M E E T I N G

-- By roll call vote of 16 yeas-0 nays the two watershed projects were approved and forwarded to the full Committee with a favorable recommendation.

At 10:50 a.m. the Subcommittee resolved into a business meeting. Following brief discussion, Mr. Coleman moved that the watershed projects for Upper Locust Creek Watershed in Missouri and Iowa, and Howard Creek Watershed in West Virginia be favorably fowarded to the full Committee. The clerk was asked to call the roll, and the vote follows:

Y E A S

1. Mr. Penny
2. Mr. Stallings
3. Mr. Nagle
4. Mr. Harris
5. Mr. Staggers
6. Mr. Coleman
7. Mr. Gunderson (proxy to Mr. Coleman)
8. Mr. Holloway
9. Mr. English
10. Mr. Grandy
11. Mr. Jontz
12. Mr. Tallon
13. Mr. Morrison
14. Mr. Espy (proxy to Mr. English)
15. Mr. Sarpalius
16. Mr. Combest (proxy to Mr. Coleman)

N A Y S

None

Wednesday, April 5, 1989
Subcommittee on Conservation,
Credit, and Rural
Development
Public Hearing and Business
Meeting
Pending Watershed Projects

Thus, by a roll call vote of 16 yeas-0 nays the projects were approved and forwarded to the full Committee.

During the proceedings, one special introduction was made: Mr. Staggers introduced Mayor Bowling. At 10:55 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

Upper Locust Creek Watershed, Missouri and Iowa

Size and Location: 238,700 Acres. Putnam and Sullivan Counties in north-central Missouri, Wayne and Appanoose Counties in south-central Iowa.

Tributary to: Locust Creek

Sponsors: Soil and Water Conservation District of Putnam County, MO
Putnam County Commission, MO
Soil and Water Conservation District of Sullivan County, MO
Sullivan County Commission, MO
Wayne County Soil Conservation District, Iowa
Wayne County Board of Supervisors, Iowa
Appanoose County Board of Supervisors, Iowa
Locust Creek Watershed Subdistrict, MO

Purposes: Watershed Protection and Flood Prevention.

Total Watershed Land Use:	Percent
Cropland	28
Grassland	47
Forest Land	24
Other	1

Total watershed privately owned - 98%

Number of Farms: 634

Size of Farms: 370 acres, average

Principal Measures: Principal Structural Measures (Financial and Technical Assistance): 5 floodwater retarding dams and 347 dams for floodwater detention and grade stabilization.

"Principal Land Treatment Measures (P.L.-566 Technical Assistance):"
Cropland:
37 grade stabilization structures;
310 acres of grassed waterways or outlets;
85,500 feet of underground outlets;
1,440,500 feet of terraces;
1,810 acres of pasture and hayland planting and management (1,357 acres cool-season legume mix and 453 acres of warm-season grass mix);
50 acres of tree planting;
17,200 acres of conservation tillage;
8,200 acres of conservation cropping systems; and
17,200 acres of contour farming.

Grassland:
200 acres of critical area planting;
250 grade stabilization structures;
5,700 acres of pasture and hayland planting; and
11,900 acres of pasture and hayland management.

Forestland:
8,200 acres of woodland improvement including 1,000 acres of livestock exclusion.

Average Annual Benefits:

	Dollars	Percent
To agricultural acreage (land and crops)	1,609,501	94.2
To agricultural improvements	51,258	3.0
To nonagricultural improvements	47,841	2.8
Total	1,708,600	100.0

Project Costs:

	P.L. 566 Funds		Other Funds		Total
	Dollars	Pct.	Dollars 1/	Pct.	Dollars
Land Treatment Measures	875,100	18.5	3,852,900	81.5	4,728,000
Structural Measures					
Flood Prevention	14,889,900	91.6	1,369,400	8.4	16,259,300
Project Administration	400,400	85.0	70,900	15.0	471,300
Total	16,165,400		5,293,200		21,458,600

Average Annual Costs:

Project Installation -	$1,151,000
OM&R -	104,700
Total	$1,255,700

Area Benefited: 69,700 acres; Floodplain 26,900; Upland 42,800. In addition, 22,600 acres of common floodplain with Locust Creek (outside watershed) receive benefits.

Number of beneficiaries:	
Flood Prevention	164
Watershed Protection	470
Total	634

Carrying out the Project:

The estimated annual cost of operation and maintenance is $104,700

Benefit-Cost Ratio: 1.36:1.00

The sponsors do not intend to use an FHA loan.

1/ For land treatment measures this is primarily the cost of applying land treatment measures by landowners. For structural measures this is primarily the cost of landrights.

Howard Creek Watershed, West Virginia

Size and Location: Greenbrier County, West Virginia, approximately 60 miles east of Beckley. The watershed is 58,300 acres (91 1 square miles). Congressional District 2.

Tributary to: Greenbrier River

Sponsors: Greenbrier County Commission
City of White Sulphur Springs
Greenbrier Valley Soil Conservation District

Purposes: Watershed protection and flood prevention.

Total Watershed Land Use:	Percent
Croplands	0.4
Grasslands	6.9
Woodland	86.7
Miscellaneous	1.1
Urban	4.9

Total watershed privately owned - 90 percent.

Number of Farms: 200

Size of Farms: About 175 acres average.

Principal Measures:

1) Dam site #12 on Dry Creek. Dam is earthen type 86 feet high and contains 624,400 cubic yards of material. The dam provides a permanent 19-acre sediment pool, which will expand up to 100 acres during flood times.

2) Channel work through the city of White Sulphur Springs. The length of the channel is 2,910 feet with a depth of 8.5 feet and a bottom width which varies from 55 to 85 feet.

3) Provide technical assistance to prepare resource inventories, develop conservation plans, and apply conservation practices. The accelerated land treatment program will treat 90 acres of cropland, 600 acres of pastureland, 20 acres of urban land, 10 acres of forest land access roads, 5 acres of other land, 800 acres of wildlife management, and will convert 90 acres of hayland and pastureland to forest land.

Annualized Benefits:

	Dollars	Percent
To nonagricultural improvements		
Flood Damage Reduction	484,100	82
Incidental Recreation	10,900	2
Unemployed Labor	93,600	16
Total	588,600	100

Project Costs:

	P.L. 566 Funds		Other Funds		Total
	Dollars	Pct.	Dollars 1/	Pct.	Dollars
Land Treatment Measures	98,900	1.2	106,500	1.3	205,400
Structural Measures					
Flood Prevention	6,011,900	72.8	1,830,300	22.2	7,842,200
Project Administration	196,200	2.4	6,100	0.1	202,300
Total	6,307,000	76.4	1,942,900	23.6	8,249,900

Annualized Costs:

Project Installation	$486,600
OM&R	6,200
Total	$492,800

Annualized costs are average annual equivalents based upon a 106 year period of analysis at 8-7/8 percent interest.

Area Benefited: 1,615 acres.

Number of beneficiaries: 336 Homes
94 Businesses
9,500 Annual Fishermen Days

Carrying out the Project: SCS will provide engineering design, construction funds, and contract administration. The sponsors will acquire the necessary landrights and provide proper OM&R.

The estimated annual cost of operation and maintenance is $6,200.

Benefit-Cost Ratio: 1.2:1

The sponsors do not intend to use an FHA loan.

1/ For land treatment measures this is primarily the cost of applying land treatment measures by landowners. For structural measures this is primarily the cost of landrights.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, April 6, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 10:00 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the outlook for the 1989 wheat crop and related issues

The following Members were present:

Mr. Glickman	Mr. Marlenee	Mr.
Mr. Johnson	Mr. Roberts	Mr.
Mr. English	Mr.	Mr.
Mr. Volkmer	Mr.	Mr.
Mr. Penny	Mr.	Mr.
Mr. Nagle	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Mr. Dyson	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Greg Frazier, Subcommittee Staff Director
Cliff Humphrey, Minority Consultant
Glenda Temple, Clerk
Fred Clark, Staff Assistant
Tom Lederer, Staff Assistant
Howard Conley, Staff Assistant
Jim Davis, Press Secretary

Witnesses:

1. Dr. Ewen M. Wilson, Assistant Secretary for Economics, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Dr. Norton Strommen, Chief Meteorologist, USDA
   Dr. Keith Collins, Director, Economic Analysis, USDA
   Dr. Leo Mayer, Deputy Assistant Secretary for Economics, USDA

2. Panel:

   Dr. John A. Schnittker, Schnittker and Associates, Washington, D.C.

   Mr. David Frey, Assistant Administrator, Kansas Wheat Commission, Manhattan, Kansas

   Mr. Joe Berry, Chairman, Kansas Wheat Commission, Lenora, Kansas

Statements Submitted for the Record:

1. Hon. Ron Marlenee, Member of Congress from Montana
2. Hon. Dan Glickman, Member of Congress from Kansas

Thursday, April 6, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Hearing
Review outlook for 1989 wheat
crop, and related issues

Chairman Glickman called the meeting to order for the purpose of reviewing reports of the potential of a major shortfall in the 1989 winter wheat harvest due to a severe drought. Mr. Glickman made opening comments as did Messrs. Marlenee, Johnson, Roberts, English and Dyson.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At the conclusion of the meeting, Mr. Glickman advised that he would discuss the situation with Chairman de la Garza and would decide on the appropriate action of the Subcommittee in the coming months with possible legislative alternatives. At 12:05 p.m. the meeting was adjourned to reconvene, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, April 13, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Business Meeting

met at 10:10 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering H.R. 1368, Tongass Timber Management Act

The following Members were present:

Mr. Volkmer
Mr. Olin
Mr. Stallings
Mr. Jontz
Mr. Johnson
Mr. Harris
Mr. de la Garza
ex officio
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Morrison
Mr. Marlenee
Mr. Smith
Mr. Herger
Mr.
Mr.
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Mr.

Staff present:

Dan Brinza, Counsel
Joe Muldoon, Assistant Counsel
Vernie Hubert, Associate Counsel
John Hogan, Minority Counsel
Alice Devine, Associate Minority Counsel
Tim DeCoster, Subcommittee Staff Director
Kraig Naasz, Minority Consultant
Glenda Temple, Clerk
Jim Lyons, Staff Assistant
Jim Davis, Press Secretary

Witnesses:

Present from the Administration to respond to questions:

1. Mr. Dave Rittenhouse, Alaska Affairs Coordinator, Forest Service, U.S. Department of Agriculture, Washington, D.C.

2. Mr. James Perry, Assistant General Counsel, Office of General Counsel, U.S. Department of Agriculture, Washington, D.C.

Thursday, April 13, 1989
Subcommittee on Forests,
Family Farms, and Energy
Business Meeting
Tongass Timber Management
H.R. 1368

Action taken:

-- By voice vote Volkmer/Morrison substitute amendment approved as markup vehicle.

-- Without objection Olin minimum pricing amendment withdrawn.

-- By voice vote Olin amendment providing for gains and losses information adopted.

-- By voice vote Olin amendment regarding old growth agreed to.

-- Without objection Jontz amendment on method of valuation withdrawn.

-- By voice vote H.R. 1368, as amended, ordered reported to the full Committee.

Chairman Volkmer called the meeting to order for the purpose of considering H.R. 1368, a bill to amend the joint resolution entitled a "Joint resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest", and for other purposes. (See attached copy of bill, substitute amendment and explanations.)

Counsel was asked to explain the proposed substitute amendment.

Discussion occurred and Mr. Morrison moved that the substitute amendment offered by himself and Mr. Volkmer be considered as the markup vehicle. By a voice vote the motion was agreed to.

Mr. Olin offered the attached amendment to direct the Secretary to determine the cost of preparing timber for sale or release for harvest and to establish a minimum price for the timber sold or released for harvest to equal the cost of preparing the timber for harvest. Discussion occurred and without objection the amendment was withdrawn.

Mr. Olin then offered an alternative amendment to require the Forest Service to include an accounting of the costs and revenues associated with the timber sale program (copy attached). Discussion occurred and by a voice vote the proposal was adopted.

Thursday, April 13, 1989
Subcommittee on Forests,
Family Farms, and Energy
Business Meeting
Tongass Timber Management
H.R. 1368

Mr. Olin offered the attached amendment to provide for the maintenance of old growth forest resources within the Tongass National Forest and to include such information in the Management Plan. Discussion occurred and by a voice vote the amendment was agreed to.

Mr. Jontz offered the attached amendment providing a method of valuation for timber to be sold or released for harvest from the Tongass National Forest. Discussion occurred, and without objection Mr. Jontz withdrew the amendment with the understanding that his right to offer the amendment in full Committee would be protected. Further, Chairman Volkmer advised that he would hold a Subcommittee hearing on the issue so that information could be obtained prior to the full Committee markup.

Staff was given permission to put the amendments adopted at the appropriate place in the substitute, since they had been drafted to the bill as introduced.

Mr. Morrison moved that H.R. 1368, as amended, be ordered reported to the full Committee with the recommendation that it do pass. By a voice vote the motion was agreed to in the presence of a quorum (9 Members present and voting).

At 11:05 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

(H.R. 1368 is held in the committee files.)

AMENDMENT TO H.R. 1368

(in the nature of a substitute)

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tongass National Forest Management Improvement Act of 1989".

SEC. 2. AMENDMENT OF TONGASS NATIONAL FOREST LONG-TERM TIMBER CONTRACTS TO BETTER ACHIEVE FOREST MANAGEMENT OBJECTIVES.

(a) Finding.--The Congress finds that changes in the long-term timber contract between the United States and Ketchikan Pulp and Paper Company, Contract No. A10fs-1042, and the long-term timber contract between the United States and the Alaska Pulp Corporation, Inc., Contract No. 12-11-010-1545 (hereinafter referred to as "contracts") are necessary because the contracts prevent proper management of the Tongass National Forest, have undermined fair competition in the southeast Alaska timber industry, and fail to provide a fair financial return to the United States.

(b) Amendment.--The joint resolution entitled a "Joint Resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest" approved August 8, 1947 (61 Stat. 920), is amended by adding at the end the following:

"SEC. 4. AMENDMENT OF TONGASS NATIONAL FOREST LONG-TERM TIMBER CONTRACTS TO BETTER ACHIEVE FOREST MANAGEMENT OBJECTIVES.

"(a) Secretarial Action.--No later than 90 days after the date of enactment of this section, the Secretary of Agriculture shall enter into negotiations with the holders of the contracts

to make changes in the contracts that will achieve the objectives specified in subsection (b), to the extent that the objectives cannot be achieved solely through unilateral actions of the Secretary of Agriculture. To the extent that the objectives specified in subsection (b) can be achieved solely through unilateral action, the Secretary of Agriculture shall, within one year of the date of enactment of this section, take such actions necessary to achieve the objectives.

"(b) Objectives.--Action and negotiations pursuant to this section shall be undertaken in order to achieve the following objectives:

"(1) To bring forest planning and management practices regarding the Tongass National Forest into conformance with such planning and practices regarding other national forests and, in light of the amendment to section 705 of the Alaska National Interest Lands Conservation Act made by the Tongass National Forest Management Improvement Act of 1989, into compliance with the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of 1969, and other laws applicable to the National Forest System;

"(2) To provide that the holders of the contracts pay stumpage rates under such contracts comparable to those paid in connection with other sales of timber out of the Tongass National Forest;

"(3) To promote fair competition within the timber industry in southeast Alaska;

"(4) To enhance the protection of fish and wildlife resources and habitats in the Tongass National Forest by preventing excessive harvesting of high-volume old-growth timber;

"(5) To bring administration of the contracts into conformance with the administration of short-term sales by implementing the recommendations of the "Reid Brothers Anti-Trust Case Review Team Findings", printed as an appendix to the Report of the Committee on Agriculture of the House of Representatives to accompany the bill H.R. 1368; and

"(6) To provide that the operating plans under the contracts are at all times consistent with the land management plan then in effect for the Tongass National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).".

(c) Report to Congress.--

(1) No later than one year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Congress a written report concerning the implementation of section 4 of the joint resolution entitled a "Joint Resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest" approved August 8, 1947 (61 Stat. 920), as added by subsection (b) of this

section.

(2) Such report shall--

(A) describe the actions taken, and the results of the negotiations entered into, pursuant to such section 4(a), including the extent to which the holders of the contracts have agreed to changes in such contracts in order to achieve the objectives specified in such section 4(b);

(B) include recommendations for congressional action to achieve the objectives specified in such section 4(b); and

(C) in the event that the Secretary of Agriculture determines that the objectives specified in such section 4(b) have not been achieved through actions pursuant to such section 4, provide an analysis of the extent to which the objectives would be achieved through termination of the contracts.

SEC. 3. APPLICATION OF FOREST MANAGEMENT PRACTICES TO THE TONGASS NATIONAL FOREST.

(a)(1) Preparation of Timber for Sale.--Subject to the provisions of the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), the Secretary of Agriculture shall prepare sufficient timber for sale from the Tongass National Forest to meet projected market demand,

as determined by the Secretary of Agriculture, up to 4.5 billion board feet per decade beginning with the decade beginning January 1, 1990.

(2) The 4.5 billion board feet measure per decade shall not affect the forest planning process set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(b) Forest Management Practices.--The Secretary of Agriculture shall exercise independent judgement in determining the location and size of sale units and the manner and timing of timber harvests on the Tongass National Forest. The Secretary of Agriculture shall make such determination in accordance with those laws, guidelines, standards and policies relating generally to timber sales from other forests within the National Forest System. With regard to such determination, the Secretary of Agriculture may receive and consider proposals submitted pursuant to the contracts as well as comments from prospective purchasers and other parties, but need not adhere to such proposals or comments.

SEC. 4. MANAGEMENT OF THE TONGASS NATIONAL FOREST.

(a) Findings.--The Congress finds that--

(1) the commercial fishing, recreation, timber, and tourism industries each make a substantial contribution to the economy of southeast Alaska and their ability to contribute in the future depends upon balanced planning and

management of the Tongass National Forest; and

(2) the Secretary of Agriculture should plan and manage the Tongass National Forest in a manner that adequately protects and enhances fish, wildlife, and recreation resources, as well as timber, and should act in the long-term best interests of all natural resources dependent industries and subsistence communities in southeast Alaska.

(b) Purposes.--The purposes of this section are--

(1) to require the Secretary of Agriculture to assess the extent to which planning and management of the Tongass National Forest prior to the enactment of this Act has differed from planning and management of other national forests; and

(2) to require the Secretary of Agriculture to change, in conformance with laws applicable to the National Forest System, planning and management priorities regarding the Tongass National Forest so as to assure that greater emphasis is given to the long-term best interests of the commercial fishing, recreation, and tourism industries, subsistence communities in southeast Alaska, and the national interest in the fish and wildlife and other natural resources of the Tongass National Forest.

(c) Directive.--The Secretary of Agriculture is authorized and directed to take such steps as necessary to achieve the purposes described in subsection (b).

SEC. 5. AMENDMENT TO ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AND CONFORMING AMENDMENT.

(a) The Alaska National Interest Lands Conservation Act is amended by--

(1) striking sections 705(a) and (d);

(2) striking in section 706(a) "and the Committee on Interior and Insular Affairs" and inserting "the Committee on Agriculture and the Committee on Interior and Insular Affairs";

(3) striking the second sentence of section 706(a);

(4) striking in section 706(b) "and (4)" and inserting "(4)";

(5) striking the period at the end of section 706(b) and inserting ", (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats, and (6) the steps taken by the Secretary of Agriculture under section 4(c) of the Tongass National Forest Management Improvement Act of 1989."; and

(6) striking in section 706(c) "and the Alaska Land Use Council" and inserting in lieu thereof "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council".

(b) Section 5202 of the Omnibus Reconciliation Act of 1987 is repealed.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1368

SECTION-BY-SECTION ANALYSIS

Section 1 - Short title

Section 1 provides that the Act may be cited as the "Tongass National Forest Management Improvement Act of 1989".

Section 2 - Amendment of Tongass National Forest long-term timber contracts to better achieve forest management objectives.

Subsection (a) sets forth certain findings of Congress.

Subsection (b) amends the Joint Resolution of August 8, 1947 by adding a new section 4 to do the following:

Subsection 4(a) directs the Secretary, within one year from the date of enactment, to unilaterally take whatever action is necessary to achieve the objectives enumerated in subsection (b). To the extent that these objectives are not achievable by unilateral action, the Secretary, within 90 days from the date of enactment, is to commence negotiations with holders of certain long-term timber sale contracts to modify the contracts to achieve those objectives.

Subsection (b) lists the objectives sought to be achieved. These are:

1) to bring forest planning and management practices regarding the Tongass National Forest into conformance with such planning and practices regarding other national

forests and the laws generally applicable to those other national forests;

2) to provide that the holders of these contracts pay stumpage rates comparable to the rates paid for other timber sales out of the Tongass National Forest;

3) to promote fair competition within the timber industry in southeast Alaska;

4) to enhance the protection of fish and wildlife resources and habitats in the Tongass National Forest by preventing excessive harvesting of high-volume old-growth timber;

5) to bring administration of these contracts into conformance with the administration of short-term sales by implementing the recommendations of the "Reid Brothers Anti-Trust Case Review Team Findings"; and

6) to make the operating plans under these contracts at all times consistent with the Tongass Land Management Plan.

Subsection (c) requires the Secretary of Agriculture to report to Congress the actions taken, and the results of any negotiations to modify these contracts, under the new section 4 and to include in the report the Secretary's recommendations for congressional action to achieve the objectives of that section. In the report, the Secretary

would also provide an analysis of the extent to which termination of the contracts would achieve any of the objectives not otherwise achieved.

Section 3 - Application of forest management practices to the Tongass National Forest

Section 3(a) requires the Secretary of Agriculture to prepare sufficient timber to meet projected market demand, up to a maximum of 4.5 billion board feet (bbf) per decade. The requirement becomes effective with the decade beginning on January 1, 1990. Paragraph 2 of section 3(a) provides that the planning process in the Forest Renewable Resources Planning Act of 1974 is not to be affected by the 4.5 bbf measure per decade.

Section 3(b) directs the Secretary to exercise independent judgement in determining the location and size of sale units and the manner and timing of timber harvests on the Tongass National Forest and to make such determination in accordance with applicable laws, guidelines, standards and policies relating generally to timber sales in other forests within the National Forest System. In making these determinations, the Secretary would be permitted to consider proposals submitted pursuant to these contracts as well as comments from other parties, including prospective purchasers, but would not need to adhere to such proposals or comments.

Section 4 - Management of the Tongass National Forest

Section 4(a) provides certain findings of Congress regarding management of the Tongass National Forest.

Section 4(b) provides that the purposes of this section are to require the Secretary:

(1) to assess the extent to which there are differences in planning and management of the Tongass National Forest from other national forests; and

(2) to change the priorities of such planning and management to give greater emphasis to certain national and local interests.

Section 4(c) authorizes and directs the Secretary to take the necessary steps to achieve the purposes in subsection (b).

Section 5 - Amendment to Alaska National Interest Lands Conservation Act and conforming amendment.

Section 5(a) amends the Alaska National Interest Lands Conservation Act (ANILCA) by:

(1) repealing section 705(a), which authorizes and directs the Secretary of the Treasury to make available to the Secretary of Agriculture at least $40 million per year, or as much as is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4.5 bbf per decade.

(2) repealing section 705(d) which presently makes the provisions of section 6(k) of the Forest and Rangeland Renewable Resources Planning Act of 1974 inapplicable to section 705 of ANILCA. Section 6(k) provides for the identification and treatment of lands not suited for timber production.

(3) including the Committee on Agriculture as a recipient of the Secretary's report on timber supply and demand in southeast Alaska required under section 706(a).

(4) repealing the requirement in section 706(a) that the Secretary include in his report any finding that the available land base in the Tongass National Forest is inadequate to maintain the timber supply to dependent industry at the rate of 4.5 bbf measure per decade.

(5) directing the Secretary to include a review of the impact of timber management on subsistence resources, wildlife and fisheries habitats and the steps taken by the Secretary under section 4(c) in the Secretary's biennial report on the status of the Tongass National Forest under section 706(b).

(6) including the southeast Alaska commercial fishing industry in the groups with whom the Secretary is to consult and cooperate in conducting the study required under section 706.

Section 5(b) repeals section 5202 of the Omnibus Reconciliation Act of 1987, which replaced section 705(a) of ANILCA through September 30, 1989.

Major Differences between H.R. 1368
and Amendent in the Nature of a Substitute

I. Timber Sale Level

Both versions repeal Section 705(a) of the Alaska Lands Act (ANILCA), which provides permanent appropriation of such sums as the Secretary of Agriculture finds necessary (at least $40 million annually) to maintain a timber supply of 4.5 billion foot board measure per decade.

The amendment requires the Secretary, subject to applicable planning and managemet statutes, to prepare sufficient timber for sale to meet projected demand, up to 4.5 billion board feet per decade.

II. Timber Harvest Site Selection

The amendment requires the Secretary of Agriculture to exercise independent judgment in determining the location and size of timber sale units and the manner and timing of timber harvests on the Tongass. H.R. 1368 contains no such provision.

SUMMARY OF AMENDMENT TO H.R. 1368
(in the Nature of a Substitute)
Major Provisions

I. Long-term Contracts

The Secretary of Agriculture is directed to enter into negotiations with holders of the two 50-year timber contracts to make changes in the contracts to achieve a set of objectives, to the extent the objectives cannot be achieved through unilateral actions.

The objectives are to:

(1) conform planning and management on the Tongass with that of other national forests;

(2) provide that stumpage rates under the contracts are comparable to those paid for other timber sales on the Tongass;

(3) promote fair competition in the timber industry in southeast Alaska;

(4) enhance protection of fish and wildlife habitat by preventing excessive harvesting of high-volume old-growth timber;

(5) conform administration of the contracts with administration of short-term sales by implementing recommendations of the Forest Service's Reid Brothers Anti-Trust Case Review Team Findings; and

(6) provide that contract operating plans are consistent with the Tongass Land Management Plan in effect.

The Secretary is to report to Congress within one year of enactment on actions taken in this regard.

II. Timber Sales

Section 705(a) of the Alaska Lands Act (ANILCA) is repealed. This section directs the Secretary of the Treasury to make available to the Secretary of Agriculture as much money as the Secretary of Agriculture finds necessary (at least $40 million annually) to maintain the timber supply from the Tongass at a rate of 4.5 billion foot board measure per decade.

The amendment requires the Secretary, subject to applicable planning and management statutes, to prepare sufficient timber for sale from the Tongass to meet projected market demand, up to 4.5 billion board feet per decade.

The Secretary of Agriculture is directed to exercise independent judgment in determining the location and size of timber sale units and the manner and timing of timber harvests on the Tongass. This provision is intended to conform the Tongass timber sale site selection process with that used for other National Forests.

III. Tongass Management

The Secretary of Agriculture is directed to take such steps as necessary to change planning and management priorities to give greater emphasis to the long-term best interests of commercial fishing, recreation, and tourism industries, subsistence communities, and the national interest in the natural resources of the Tongass.

Olin #1

EXPLANATION OF MINIMUM PRICING POLICY AMENDMENT

The purpose of this amendment is to meet the objective of providing a fair financial return to the United States from the sale of timber from the Tongass National Forest.

This amendment would direct the Secretary to determine, atleast annually, the cost of preparing timber for sale or release for harvest from the Tongass National Forest, per thousand board foot of timber, using the Timber Sale Program Information Reporting System (TSPIRS) developed by the Forest Service. Report One of TSPIRS is an accounting of the costs and revenues associated with the timber sale program.

Based upon the unit cost data obtained from the TSPIRS report, the Secretary would establish a minimum price for timber sold or released for harvest from the Tongass that would equal the unit cost of preparing the timber for harvest. In this way, the Forest Service would seek to avoid financial losses associated with the Tongass timber sale program.

Amendment to H.R. 1368

Offered by Mr. Olin

On page 8, after line 15, add the following:

"(d) Minimum Pricing Policy.--

"(1) Using information from report #1 of the Timber Sale Program Information Reporting System, the Secretary shall determine the unit cost (per thousand board feet of timber) of preparing timber for sale or release for harvest from the Tongass National Forest.

"(2) The minimum price that the Secretary shall accept for timber sold or released for harvest from the Tongass National Forest shall not be less than the unit cost determined pursuant to paragraph (1) of this subsection.

"(3) The Secretary shall redetermine the unit cost of preparing timber for sale or release for harvest under this subsection at least once per year."

Ollie #2

EXPLANATION OF ALTERNATIVE TO MINIMUM PRICING POLICY AMENDMENT

This alternative to the minimum pricing policy amendment would require that the Forest Service's annual report on the Tongass National Forest include an accounting of the costs and revenues associated with the timber sale program. Data would be generated from the TSPIRS accounting report and would be displayed with respect to the long-term and short-term timber sales as well as the total timber sales program. For assessing trends, these data would be presented for the current and previous two years.

Amendment to H.R. 1368

Offered by Mr. Olin

On page 6, strike lines 10 and 11 and insert the following:

"(2) Striking the second sentence of such subsection and inserting the following new sentence:

"This report shall include a complete analysis of the losses or gains sustained by the United States Government with respect to long-term, short-term and total sales of timber from the Tongass National Forest using information from report #1 of the Tongass Sale Program Information Reporting System and displaying total costs, unit costs (per thousand board feet of timber sold or released) and associated revenues, for the current and previous two years of operation.".

EXPLANATION OF OLD-GROWTH FOREST MANAGEMENT AMENDMENT

The purpose of this amendment is to direct the Secretary to ~~provide~~ for the maintenance of old-growth forest resources within the Tongass National Forest and to report back to the Comittee on Agriculture regarding the provisions incorporated into the Tongass Land Management Plan to meet this objective.

Amendment to H.R. 1368 Offered by Mr. Olin

On page 8, after line 15, insert the following:

"(d) Old-Growth Forest Management.--In developing the land management plan for the Tongass National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, the Secretary shall--

(1) provide for sustained production of old-growth forest resources within the Tongass National Forest; and

(2) upon completion of the draft of such plan, which shall be completed in any event not later than one year after the date of enactment of this Act, report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on provisions incorporated into such plan to meet the objective set forth in paragraph (1). The report shall include--

(A) the definition of the term "old-growth forest" used for purposes of such plan;

(B) the quantity and distribution of old-growth forest in the Tongass National Forest;

(C) the management objectives and guidelines incorporated into such plan to provide for sustained production of old-growth forest resources;

(D) the criteria used to determine how to integrate old-growth forest management objectives into the plan; and

(2)

(E) the relationship between old-growth forest management objectives and other resource management goals affecting timber, fish and wildlife, water quality, recreation, subsistence uses, and aesthetics."

Amendment to H.R. 1368

Offered by Mr. Jontz

On page 8, after line 15, add the following:

"(d) Method of Valuation--

The Secretary of Agriculture shall use the transaction evidence appraisal method in establishing stumpage rates for timber to be sold or released for harvest from the Tongass National Forest."

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, April 18, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:45 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of receiving a status report on the Futures Industry investigation

The following Members were present:

Mr.	English	Mr.	Coleman	Mr.
Mr.	Tallon	Mr.	Morrison	Mr.
Mr.	Penny	Mr.	Gunderson	Mr.
Mr.	Jontz	Mr.	Holloway	Mr.
Mr.	Espy	Mr.		Mr.
Mr.	de la Garza	Mr.		Mr.
Mr.	ex officio	Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
				Mr.
				Mr.
				Mr.
				Mr.
				Mr.

Staff present:

Dan Brinza, Counsel
John Hogan, Minority Counsel
Fred Clark, Assistant Counsel
Joe Muldoon, Assistant Counsel
Bill Cherry, Subcommittee Staff Director
DAve Ebersole, Minority Consultant
Bert Peña, Staff Director
Glenda Temple, Clerk
Jim Davis, Press Secretary
Tom Lederer, Staff Assistant
Bill O'Conner, Assistant Minority Staff Director

Witnesses:

1. Mr. Bill Cherry, Staff Director, Subcommittee on Conservation, Credit, and Rural Development, Committee on Agriculture, U.S. House of Representatives, Washington, D.C.

2. Mr. David P. Tarosky, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, Committee on Agriculture, U.S. House of Representatives, Washington, D.C.

3. Ms. Dorothy LaValle, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, Committee on Agriculture, U.S. House of Representatives, Washington, D.C.

4. Ms. Gwenetta Blackwell, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, House Committee on Agriculture, U.S. House of Representatives, Washington, D.C.

5. Mr. Chris Vail, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, Committee on Agriculture, U.S. House of Representatives, Washington, D.C.

Statement Submitted for the Record:

1. Mr. James McDonald, Pr[illegible] Staff Member, Subcommittee on Conservation, Credit, [illegible]velopment, Committee on Agriculture, U.S. House of [illegible]tatives, Washington, D.C.

Tuesday, April 18, 1989
Subcommittee on Conservation, Credit,
and Rural Development
Public Hearing
Status report on Futures Industry
investigation

Chairman English called the meeting to order for the purpose of receiving a staff report on the overview of the regulatory structure of the futures industry, with a description of the registration system and what was found at each of the exchanges, National Futures Association, and Commodity Futures Trading Commission. He advised that this was the first of a series of briefings and in the future would cover such areas as compliance and disciplinary actions, trading practices including dual trading, sales practices, reparations and arbitrations, clearing houses, and the current status of audit trails and trade timing with information on technological advances. Messrs. Coleman, Tallon, and Morrison also made opening comments.

The staff briefing was conducted by those listed on page 2 of these minutes. Following their presentations, the staff was questioned by the Members of the Subcommittee.

During the proceedings one recess was taken at 12:12 p.m. to enable Members to respond to a recorded vote on the House floor. At 12:40 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, April 19, 1989

(Sub) Committee Department Operations, Research, and Foreign Agriculture and Forests, Family Farms, and Energy Joint Public Hearing

met at 9:40 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing climate change and agriculture

The following Members were present:

DORFA	FFFE	
Mr. Brown	Mr. Volkmer	Mr.
Mr. Stenholm	Mr. Olin	Mr.
Mr. Olin	Mr. Stallings	Mr.
Mr. Volkmer	Mr. Jontz	Mr.
Mr. Roberts	Mr. Johnson	Mr.
Mr. Morrison	Mr. Harris	Mr.
Mr. Walsh	Mr. Morrison	Mr.
Mr.	Mr. Schuette	Mr.
Mr.	Mr. Herger	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.

Staff Present:
Dan Brinza, Counsel
John Hogan, Minority Counsel
Joe Muldoon, Assistant Counsel
William A. Stiles, Subcommittee Staff Director
Tim DeCoster, Subcommittee Staff Director
John Aguirre, Minority Consultant
Kraig Naasz, Minority Consultant
Glenda Temple, Clerk
Jim Lyons, Staff Assistant
Cristy Scott, Staff Assistant
Rob Myers, Congressional Science Fellow
Jim Davis, Press Secretary

Witnesses:

1. Panel

Dr. Orville G. Bentley, Assistant Secretary, Science and Education, U.S. Department of Agriculture, Washington, D.C.

Acc. by: Dr. Norton Strommen, Chief Meteorologist, USDA
Dr. Mike Fosberg, Research Meteorologist, Forest Service, USDA
Dr. Doral Kemper, National Program Leader for Climate, Agricultural Research Service, USDA
Dr. Boyd Post, Cooperative State Research Service, USDA

Dr. Alan P. Thomas, Acting Assistant Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C.

Dr. Shelby G. Tilford, Director, Earth Sciences and Applications Division, Office of Space Science and Applications, National Aeronautics and Space Administration, Washington, D.C.

2. Panel

Dr. Boyd R. Strain, Professor of Botany, Duke University, Durham, North Carolina

Dr. Pierre Crosson, Senior Fellow, Resources for the Future, Washington, D.C.

Mr. Justin R. Ward, Senior Project Associate, National Resources Defense Council, Washington, D.C.

Ms. Cynthia E. Rosenzweig, Department of Geography, Columbia University and NASA/Goddard Institute for Space Studies, New York, New York

Wednesday, April 19, 1989
Department Operations,
Research, and Foreign
Agriculture Subcommittee
Forests, Family Farms, and
Energy Subcommittee
Joint Public Hearing
Climate change and agriculture

Chairman Brown of the Subcommittee on Department Operations, Research, and Foreign Agriculture, called the joint meeting to order for the purpose of reviewing the extent to which probable climatic changes will disrupt our agricultural systems in the coming years. Mr. Brown made opening comments, as did Mr. Roberts, the Ranking Minority Member of the Subcommittee, and Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy. A statement was submitted for the record for Mr. Morrison, the Ranking Minority Member of the Forests Subcommittee.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittees.

At 12:40 a.m. the meeting was adjourned, subject to the call of the respective Chairs.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, April 25, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 10:05 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the appraisal of stumpage value for timber sold from the Tongass National Forest, as part of its consideration of H.R. 1368

The following Members were present:

Mr.	Volkmer	Mr.	Morrison	Mr.	
Mr.	Olin	Mr.	Smith	Mr.	
Mr.	Jontz	Mr.	Schuette	Mr.	
Mr.	Johnson	Mr.		Mr.	
Mr.	Harris	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	

Staff Present:
Dan Brinza, Counsel
John Hogan, Minority Counsel
Joe Muldoon, Assistant Counsel
Alice Devine, Minority Associate Counsel
Tim DeCoster, Subcommittee Staff Director
Kraig Naasz, Minority Consultant
Glenda Temple, Clerk
Grace McGovern, Staff Assistant
Jim Lyons, Staff Assistant
Jim Davis, Press Secretary

Witnesses:

1. Mr. George M. Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. David Hessel, Director of Timber Management, Forest Service, U.S. Department of Agriculture, Washington, D.C.

2. Mr. David H. Jackson, Professor, Forest Economics and Management, School of Forestry, University of Montana, Missoula, Montana

3. Mr. Richard E. Rice, Resource Economisst, The Wilderness Society, Washington, D.C.

4. Panel

   Mr. Mark Pawlicki, Director, Western Regional Office, National Forest Products Association, Portland, Oregon

   Mr. George A. Craig, Consulting Forester, Oakland, California

Tuesday, April 25, 1989
Subcommittee on Forests, Family
Farms, and Energy
Public Hearing
Review appraisal of stumpage value
for timber sold from the Tongass
National Forest
H.R. 1368

Chairman Volkmer called the meeting to order for the purpose of reviewing the appraisal of stumpage value for timber sold from the Tongass National Forest, as part of its consideration of H.R. 1368, a bill to amend the joint resolution entitled a "Joint resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest", and for other purposes.

Chairman Volkmer made opening comments as did Messrs. Morrison and Jontz. The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 1:20 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, April 27, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 10:00 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the status of the Export Enhancement Program

The following Members were present:

Mr. Glickman	Mr. Marlenee	Mr.
Mr. Johnson	Mr. Roberts	Mr.
Mr. English	Mr. Emerson	Mr.
Mr. Volkmer	Mr. Smith	Mr.
Mr. Penny	Mr. Grandy	Mr.
Mr. Nagle	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present:
Dan Brinza, Counsel
John Hogan, Minority Counsel
Bert Pena, Staff Director
Vernie Hubert, Associate Counsel
Joe Muldoon, Assistant Counsel
Alice Devine, Associate Minority Counsel
Greg Frazier, Subcommittee Staff Director
Cliff Humphrey, Minority Consultant
Anne Keys, Staff Assistant
Glenda Temple, Clerk
Grace McGovern, Staff Assistant
Anita Brown, Staff Assistant
Tom Lederer, Staff Assistant
Howard Conley, Staff Economist
William E. O'Conner, Assistant Minority Staff Director

Witnesses:

1. Mr. Richard Crowder, Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Vern Nepl, Associate Administrator, Agricultural Stabilization and Conservation Service, USDA
   Mr. Scott Steele, Associate Director, Office of Budget and Planning Analysis, USDA
   Mr. John Reddington, Deputy Assistant Administrator for Commodity and Marketing Programs, USDA

2. Panel:

   Mr. Patrick H. Thiessen, Western Regional Manager, Flour Milling Division, Cargill, Inc., Wichita, Kansas, and Chairman of Foreign Agricultural Committee, Millers National Federation
   Acc. by: Mr. Paul B. Green, Export Consultant, Millers National Federation, Washington, D.C.

   Mr. Carl F. Schwensen, Executive Vice President, National Association of Wheat Growers, Washington, D.C.

   Mr. Steven A. McCoy, President, North American Export Grain Association, Washington, D.C.

   Mr. Sheldon J. Hauck, President, National Soybean Processors Association, Washington, D.C., on behalf of National Cotton Council, National Soybeans Processors Association, and National Sunflower Association

Statements Submitted for the Record:

1. Hon. Ron Marlenee, Member of Congress from Montana

2. Hon. Dan Glickman, Member of Congress from Kansas

3. Hon. Roy Dyson, Member of Congress from Maryland

Thursday, April 27, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Hearing
Review status of Export
Enhancement Program

Chairman Glickman called the meeting to order for the purpose of reviewing the status of the Export Enhancement Program, as contained in the 1985 Food Security Act. Mr. Glickman and Mr. Marlenee, the Ranking Minority Member of the Subcommittee made opening remarks. Opening comments were also made by Messrs. Johnson, Roberts, English, Emerson, Volkmer, Smith, Sarpalius, Grandy, Nagle, Penny and Jontz. Chairman Glickman recognized a former Member of the Subcommittee -- Cooper Evans of Iowa -- who was attending the hearing.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings, Mr. Marlenee urged that the Subcommittee subpoena the appropriate representatives of the Office of Management and Budget to respond concerning any involvement by OMB in freezing the program. Mr. Volkmer asked that representatives of the Foreign Agricultural Service be invited to respond as to why proposals have not been going forward from that agency. Mr. Glickman advised that he would discuss the situation with Chairman de la Garza and the Ranking Minority Member, but would favor giving OMB, etc. an opportunity to respond either in writing or at another hearing on the allegations. If answers are not received then the Subcommittee could explore the possibility of invoking the subpoena rule.

At 1:00 p.m. the meeting was adjourned to reconvene, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, May 3, 1989

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Hearing

met at 1:35 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing H.R. 1880, by Mr. Brown (Calif.) et al, the National Agricultural Weather Information System Act.

The following Members were present:

Mr. Brown	Mr. Roberts	Mr.
Mr. Stenholm	Mr. Coleman	Mr.
Mr. Glickman	Mr. Grandy	Mr.
Mr. Olin	Mr. Walsh	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
Alice Devine, Minority Associate Counsel
William Stiles, Subcommittee Staff Director
Dan Brinza, Counsel
John Aguirre, Minority Counsel
John Hogan, Minority Counsel
Cristy Scott, Staff Assistant
Vernie Hubert, Majority Associate Counsel
Glenda Temple, Clerk
Grace McGovern, Staff Assistant

Witnesses:

1. Dr. Leo V. Mayer, Deputy Assistant Secretary of Economics, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Dr. Norton D. Strommen, Chief Meteorologist, U.S. Department of Agriculture, World Agricultural Outlook Board

2. Dr. Ronald D. McPherson, Deputy Assistant Administrator for the Weather Services, National Weather Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C.

3. Academic Panel:

   Dr. Jon F. Bartholic, Chairperson, Department of Resource Development and Director, Institute of Water Research and Center for Remote Sensing, Michigan State University, East Lansing, Michigan

   Dr. John Gerber, Professor of Climatology, Biotechnology Institute, University of Florida, Alachua, Florida

   Dr. Donald A. Wilhite, Director, International Drought Information Center, University of Nebraska, Lincoln, Nebraska

4. Commodity Organizations Panel:

   Dr. James M. Brown, Manager, Production Technology, National Cotton Council of America, Washington, D.C.

   Mr. Gary L. Obenauf, Director of Research/Technical Service, California Prune, Raisin, and Walnut Marketing Boards, Fresno, California

5. Weather Consultants Panel:

   Mr. Harvey Freese, Vice President, Freese Notis Weather, Des Moines, Iowa

   Dr. Rolland K. Hauser, Professor of Physical Science, California State University, Chico, California

Wednesday, May 3, 1989
Subcommittee on Department
Operations, Research, and
Foreign Agriculture
Public Hearing
National Agricultural Weather
Information System Act,
H.R. 1880

Chairman Brown called the meeting to order for the purpose of reviewing H.R. 1880, the National Agricultural Information System Act. Mr. Brown and Mr. Roberts, the Ranking Minority Member of the Subcommittee, made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 4:00 p.m. the meeting was adjourned, subject to the call of the Chair.

Grace McGovern

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, May 10, 1989

Committee: Full

Public Hearing

met at 9:30 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the general state of agriculture

The following Members were present:

Mr. de la Garza	Mr. Espy	Mr. Madigan
Mr. Brown	Mr. Sarpalius	Mr. Coleman
Mr. English	Ms. Long	Mr. Marlenee
Mr. Huckaby	Mr. Dyson	Mr. Hopkins
Mr. Glickman	Mr. Lancaster	Mr. Stangeland
Mr. Stenholm	Mr.	Mr. Roberts
Mr. Volkmer	Mr.	Mr. Emerson
Mr. Tallon	Mr.	Mr. Morrison
Mr. Staggers	Mr.	Mr. Gunderson
Mr. Olin	Mr.	Mr. Lewis
Mr. Penny	Mr.	Mr. Smith
Mr. Stallings	Mr.	Mr. Combest
Mr. Nagle	Mr.	Mr. Schuette
Mr. Jontz	Mr.	Mr. Grandy
Mr. Johnson	Mr.	Mr. Herger
		Mr. Holloway
		Mr. Walsh
		Mr. Grant

Staff Present:

Bert R. Peña, Staff Director
Dan Brinza, Counsel
John E. Hogan, minority Counsel
Vernie Hubert, Majority Associate Counsel
Joe Muldoon, Majority Assistant Counsel
Alice Devine, Minority Associate Counsel
Fred Clark, Majority Associate Counsel
Howard Conley, Staff Economist
Charles Hilty, Minroity Staff Director
William E. O'Conner, Jr., Assistant Minority Staff Director
Glenda Temple, Clerk
Grace McGovern, Staff Assistant
Jim Davis, Press Secretary

Witnesses:

1. Hon. Clayton Yeutter, Secretary, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Jack C. Parnell, Deputy Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C.

   Mr. Leo Mayer, Acting Assistant Secretary for Economics, U.S. Department of Agriculture, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Ron Marlenee, Member of Congress from Montana
2. Hon. Roy Dyson, Member of Congress from Maryland
3. Hon. Larry Combest, Member of Congress from Texas
4. Hon. E (Kika) de la Garza, Member of Congress from Texas

Wednesday, May 10, 1989
Full Committee
Public Hearing
State of Agriculture

Chairman de la Garza called the meeting to order to allow the Secretary of Agriculture to update the Committee on the general state of agriculture and to offer him an opportunity to present his goals for agriculture, food and natural resource policy during the 101st Congress. The Chairman made brief opening comments. In addition, Mr. Madigan, the Ranking Minority Member of the Committee, made opening comments and welcomed Mr. Grant, the new Member on the minority side to the Committee. The Chairman welcomed Ms. Long, the new Member on the majority side.

Secretary Yeutter submitted a statement for the record and summarized his views on the general state of U.S. agriculture. Following his presentation, the Secretary was questioned by the Members of the Committee.

The Chairman announced that Members could submit statements for the record. At 12:10 p.m. the meeting was adjourned to reconvene at 9:30 a.m. on Thursday, May 11, to receive testimony on the Third World Debt and its affect on American agriculture.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, May 11, 1989

~~Sub~~ Committee: Full

Business Meeting and Public Hearing

met at 9:35 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the Third World Debt and its impact on agriculture

The following Members were present:

Mr. de la Garza	Mr. Long	Mr. Madigan
Mr. Rose	Mr. Lancaster	Mr. Coleman
Mr. English	Mr.	Mr. Marlenee
Mr. Stenholm	Mr.	Mr. Hopkins
Mr. Volkmer	Mr.	Mr. Morrison
Mr. Tallon	Mr.	Mr. Smith
Mr. Olin	Mr.	Mr. Combest
Mr. Penny	Mr.	Mr. Schuette
Mr. Stallings	Mr.	Mr. Grandy
Mr. Jontz	Mr.	Mr. Herger
Mr. Johnson	Mr.	Mr. Holloway
Mr. Espy	Mr.	Mr. Walsh
Mr. Sarpalius	Mr.	Mr. Grant
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present:
Bert R. Pena, Staff Director
Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Vernie Hubert, Majority Associate Counsel
Joe Muldoon, Majority Assistant Counsel
Alice Devine, Minority Associate Counsel
Fred Clark, Majority Associate Counsel
Charles Hilty, Minority Staff Director
Glenda Temple, Clerk
Grace McGovern, Staff Assistant
Xavier Equihua, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

1. Hon. Clayton Yeutter, Secretary, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Leo Mayer, Acting Assistant Secretary for Economics, USDA

2. Mr. David C. Mulford, Under Secretary Designate for International Affairs, U.S. Department of the Treasury, Washington, D.C.

3. Panel:

   Mr. Mark Drabenstott, Assistant Vice President and Economist, the Federal Reserve Bank, Kansas City, Missouri

   Dr. David Henneberry, Associate Profesor of International Trade and Economics, Department of Agricultural Economics, Oklahoma State University, Stillwater, Oklahoma

   Dr. Robert L. Thompson, Dean of Agriculture, Purdue University, West Lafayette, Indiana

4. Panel:

   Mr. Jeffrey D. Sachs, Professor of Economics, Harvard University, Cambridge, Massachusetts

   Mr. John Williamson, Senior Fellow, Institute for International Economics, Washington, D.C.

Statements Submitted for the Record:

1. Hon. E (Kika) de la Garza, Member of Congress from Texas

2. Hon. Ron Marlenee, Member of Congress from Montana

Thursday, May 11, 1989
Full Committee
Business Meeting and
Public Hearing
Committee Rules Change;
Third World Debt and its
impact on Agriculture

B U S I N E S S M E E T I N G

Action Taken:

-- Without objection Committee Rules amended to reflect changes in Subcommittee membership.

Chairman de la Garza called the meeting to order and advised that it was necessary for the Committee to hold a brief business meeting for the purpose of considering proposed amendments to the Committee Rules in response to the addition of two new Members to the Committee. The Chairman offered the attached amendments to increase the size of (1) the Subcommittee on Livestock, Dairy, and Poultry to 20 Members (12 majority-8 minority) by adding 1 majority and 1 minority Member; and (2) the Subcommittee on Department Operations, Research, and Foreign Agriculture to 16 Members (10 majority-6 minority) by adding 1 majority Member. The Chairman explained the proposed amendments and without objection the amendments were agreed to. See attached list of Subcommittee membership, as amended.

P U B L I C H E A R I N G

At 9:40 a.m. the Committee began its scheduled hearing to review Third World Debt and its impact on the U.S. agricultural sector. Chairman de la Garza and Mr. Madigan made brief opening comments.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Committee.

Members were given permission to submit questions in writing to the witnesses. At 1:15 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, D.C. 20515

SUBCOMMITTEE ASSIGNMENTS -- 101st CONGRESS

Chairman and Ranking Minority Member Ex Officio
Members of All Subcommittees

together with Amendments of 5/11/89

Commodity Subcommittees

Cotton, Rice, and Sugar
(Ratio 11-7)

Jerry Huckaby, Chrm.
Tony Coelho
Robin Tallon
Mike Espy
Charles W. Stenholm
Richard H. Stallings
Bill Sarpalius
Walter B. Jones
Charles Hatcher
vacancy

Arlan Stangeland
Bill Emerson
Tom Lewis
Larry Combest
Wally Herger
Clyde C. Holloway

Livestock, Dairy, and Poultry
(Ratio 12-8)

Charles W. Stenholm, Chrm.
Tony Coelho
Jim Olin
Ben Nighthorse Campbell
Tim Johnson
Claude Harris
Charles Rose
Harold L. Volkmer
Timothy J. Penny
David R. Nagle
Jill Long

Steve Gunderson
Larry J. Hopkins
Arlan Stangeland
Tom Lewis
Robert F. (Bob) Smith
James T. Walsh
Bill Grant

Tobacco and Peanuts
(Ratio 8-5)

Charles Rose, Chrm.
Walter B. Jones
Charles Hatcher
Glenn English
Robin Tallon
Charles W. Stenholm
H. Martin Lancaster

Larry J. Hopkins
Larry Combest
Steve Gunderson
Bill Grant

27-445 O - 90 - 6

Wheat, Soybeans, and Feed Grains
(Ratio 12-8)

Dan Glickman, Chrm.
Tim Johnson
Glenn English
Harold L. Volkmer
Timothy J. Penny
David R. Nagle
Bill Sarpalius
Jim Jontz
Ben Nighthorse Campbell
Roy Dyson
Jill Long
Ron Marlenee
Arlan Stangeland
Pat Roberts
Bill Emerson
Robert F. (Bob) Smith
Bill Schuette
Fred Grandy

Operational Subcommittees

Conservation, Credit, and Rural Development
(Ratio 11-7)

Glenn English, Chrm.
Robin Tallon
Timothy J. Penny
Richard H. Stallings
David R. Nagle
Claude Harris
Harley O. Staggers, Jr.
Mike Espy
Bill Sarpalius
Jill Long
E. Thomas Coleman
Sid Morrison
Steve Gunderson
Larry Combest
Fred Grandy
Clyde C. Holloway

Department Operations, Research, and Foreign Agriculture
(Ratio 10-6)

George E. Brown, Jr., Chrm.
Charles Rose
Leon E. Panetta
Charles W. Stenholm
Dan Glickman
Charles Hatcher
Jim Olin
Harold L. Volkmer
Jim Jontz
Pat Roberts
E. Thomas Coleman
Sid Morrison
Fred Grandy
James T. Walsh

Domestic Marketing, Consumer Relations, and Nutrition
(Ratio 7-4)

Charles Hatcher, Chrm.
Leon E. Panetta
Dan Glickman
Harley O. Staggers, Jr.
Mike Espy
Bill Sarpalius
Bill Emerson
Tom Lewis
Wally Herger

Forests, Family Farms, and Energy
(Ratio 9-6)

Harold L. Volkmer, Chrm.
Jerry Huckaby
Jim Olin
Richard H. Stallings
Jim Jontz
Leon E. Panetta
Tim Johnson
Claude Harris

Sid Morrison
Ron Marlenee
Robert F. (Bob) Smith
Bill Schuette
Wally Herger

AMENDMENT TO 101ST CONGRESS COMMITTEE ON AGRICULTURE RULES

Amendments to Subcommittee Ratios

Paragraph b. of Rule VI is amended--

(1) in the item labeled "Livestock, Dairy, and Poultry", by striking out "(18 members, 11 majority and 7 minority)", and inserting in lieu thereof "(20 members, 12 majority and 8 minority)"; and

(2) in the item labeled "Department Operations, Research, and Foreign Agriculture", by striking out "(15 members, 9 majority and 6 minority)", and inserting in lieu thereof "(16 members, 10 majority and 6 minority)".

CHANGES IN EXISTING COMMITTEE RULES

Following is a Ramseyer of the 101st Congress Committee Rules showing the changes made by the amendments. (New matter is underlined; Material to be deleted is linetyped.)

Amendments to Subcommittee Ratios

VI. SUBCOMMITTEES

* * * * * * *

b. Jurisdiction.--The Subcommittees shall have the following general jurisdiction and number of members.

* * * * * * *

COMMODITY SUBCOMMITTEES

* * * * * * *

Livestock, Dairy, and Poultry ~~(10 members, 11 majority and 7 minority)~~ (20 members, 12 majority and 8 minority).--Livestock, dairy, poultry, and bees, generally.

* * * * * * *

OPERATIONAL SUBCOMMITTEES

* * * * * * *

Department Operations, Research, and Foreign Agriculture ~~(15 members, 9 majority and 6 minority)~~ (16 members, 10 majority and 6 minority).--Foreign agricultural programs, agency review and analysis, research, and pesticides, generally.

* * * * * * *

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, May 17, 1989

(Sub) Committee Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing hunger in rural America

The following Members were present:

Mr. Hatcher	Mr. Emerson	Mr.
Mr. Panetta	Mr. Lewis	Mr.
Mr. Staggers	Mr. Herger	Mr.
Mr. Espy	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present:

Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Joe Muldoon, Majority Assistant Counsel
Alice Devine, Minority Associate Counsel
Julia Paradis, Subcommittee Staff Director
Dean Mitchell, Subcommittee Consultant
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk
Anita Brown, Staff Assistant

Witnesses:

1. Mr. G. Scott Dunn, Acting Administrator, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Ms. Bonny O'Neil, Acting Deputy Administrator, Food Stamp Program, USDA
   Mr. George Braley, Deputy Administrator for Special Nutrition Programs, USDA

2. Dr. James T. Heimbach, Acting Administrator, Human Nutrition Information Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Dr. Robert L. Rizek, Director, Nutrition Monitoring Division, Human Nutrition Information Service, USDA

3. Mr. Myron D. Johnsrud, Administrator, Extension Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Ms. Bonnie Braun, Deputy Administrator, Home Economics and Human Nutrition, Extension Service, USDA
   Ms. Wells Willis, National Program Leader, Food Science, Extension Service, USDA

4. Panel:

   Ms. Theresa F. Barr, Corrective Action Supervisor, Dougherty County Department of Family and Children Services, Albany, Georgia
   Acc. by: Ms. June Merritt, Director, Family and Children Services, Albany, Georgia

   Ms. Charlie Mae Dean, Food Stamp Program recipient, Fort Valley, Georgia

   Mr. Elza Wilson, President, Board of Directors, Mountaineer Food Bank, Gassaway, West Virginia
   Acc. by: Ms. Carla Kniceley, Executive Director

   Mr. Chris Rebstock, Eastern Region Manager, Second Harvest, Baltimore, Maryland

5. Panel:

   Mr. Robert Greenstein, Director, Center on Budget and Policy Priorities, Washington, D.C.

   Ms. Ellen Haas, Executive Director, Public Voice for Food and Health Policy, Washington, D.C.

   Ms. Kathy Bicking, Virginia Legal Aid Society, Emporia, Virginia
   Acc. by: Ms. Barbara Mason

Wednesday, May 17, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Public Hearing
Hunger in Rural America

Statements Submitted for the Record:

1. Hon. Charles Hatcher, Member of Congress from Georgia

2. Hon. Mike Espy, Member of Congress from Mississippi

3. Hon. Harley O. Staggers, Jr., Member of Congress from West Virginia

Chairman Hatcher called the meeting to order and made brief opening comments on the serious concern of hunger in rural America. Messrs. Emerson, Panetta, Espy, Herger, de la Garza and Staggers also made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The Chairman advised that due to legislation being considered on the House floor, a number of Members could not be present to question the witnesses and they could submit their questions in writing. At 12:25 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date May 19, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Field Hearing

met at 8:00 a.m. o'clock, in Room Regional Research & Extension Center, Texas A&M University, Amarillo, Texas

for the purpose of reviewing drought conditions affecting Texas agriculture

The following Members were present:

Mr. Glickman	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. (ex officio)	Mr.	Mr.
Mr. Marlenee	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Greg Frazier, Subcommittee Staff Director
Anne Keys, Staff Assistant
Clifford Humphrey, Minority Consultant
Joe Muldoon, Majority Assistant Counsel

Witnesses:

1. Mr. Jerry D. Harris, Chairman, Texas Agricultural Stabilization and Conservation Service Board, Lamesa, Texas

   Acc. by: Mr. F.W. "Ted" Crouch, Regional Director, Federal Crop Insurance Corporation, U.S. Department of Agriculture, College Station, Texas

   Mr. Terry Harman, State Executive Director, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, College Station, Texas

2. Panel:

   Mr. D.G. "Bill" Nelson, Executive Vice President, Texas Wheat Growers Association, Amarillo, Texas

   Mr. Cagle K. Kendrick, President, Texas Wheat Growers Association, Stratford, Texas

   Dr. Travis D. Miller, Agronomist, Texas Agricultural Extension Service, Texas A&M, College Station, Texas

   Dr. Brent W. Bean, Agronomist, Texas A&M Agricultural Extension Service, Amarillo, Texas

   Mr. Gary Conley, Director, American Society of Agricultural Consultants, Perryton, Texas

   Mr. Billy B. Brown, National Grain Sorghum Producer's Association, Panhandle, Texas

   Mr. Billy J. Cleavinger, President, National Sugar Beet Growers Association, Wildorado, Texas

   Mr. Carl L. King, President, Texas Corn Growers Association, Dimmitt, Texas

   Mr. Leo Vermedahl, President-elect, Texas Cattle Feeders Association, Dalhart, Texas

4. Panel:

   Mr. Aubery W. Rasor, State Director, Texas Farm Bureau, Gruver, Texas

   Mr. Joe D. Rankin, President, Texas Farmers' Union, Ralls, Texas

Friday, May 19, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Field Hearing
Review Drought Affecting
Texas Agriculture

Witnesses Continued:

Mr. Marion D. Garland, Producer, American Agriculture Movement, Sunray, Texas

Ms. Elva I. Reeves, State Vice President, Women Involved in Farm Economics, Dalhart, Texas

Mr. R.B. Reynolds, Producer, Dalhart, Texas

Mr. Walter S. Hittle, Producer, Rolla, Kansas

5. Mr. Mark H. Freeman, President, North Panhandle Bankers Association, Texhoma, Oklahoma

Acc. by: Mr. Jim B. Shirley, President, First State Bank, Spearman, Texas

Mr. Brady R. Yeary, Vice President, First National Bank, Perryton, Texas

Mr. Jack C. Vanderburg, President, First National Bank, Dalhart, Texas

Mr. Rick Reinart, Vice President, First State Bank, Stratford, Texas

Friday, May 19, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Field Hearing
Review Drought Affecting
Texas Agriculture

Submitted statements for the Amarillo field hearing record:

1. Jack D. Powell, County Judge, Moore County Commissioners Court, Texas

2. Mr. Jerry Pat Davis, 104 Barkley, Specouman, Texas 79081

3. Mr. George G. Reeves, HCR Box 552, Dalhart, Texas 79022

4. Ms. Vickie Kennedy, Perryton Equity Exchange, P.O. Drawer 889, Perryton, Texas 79070

5. Mr. Billy Chesnut, Farm Credit Bank of Texas, Dalhart, Texas

6. Mrs. Gene W. Brillhart, Mr. Brady Yeary, Mr. Tim Cooper, Mr. Harold Courson, Perryton Equity Exchange, P.O. Drawer 889, Perryton, Texas 79070

7. Mr. Larry Nelson, Plains Cotton Growers, Inc., Lubbock, Texas

8. Mr. Brad Johnson, Sunray Co-op, Box 430, Sunray, Texas 79086

9. Mr. Ken Carver, High Plains Underground Water Conservation, 2930 Avenue Q, Lubbock, Texas 79405

10. Mr. Brent Hoover, Rt. 3, Box 94, Perryton, Texas 79070

11. Members of Perryton Equity Exchange, Perryton Equity Exchange, P.O. Drawer 889, Perryton, Texas 79070

12. Mr. Wayne Dammeir, Texas and Southwestern Cattle Raisers Assoc., Amarillo, Texas

13. Mr. Herbert Sprague. Jr., Lipscomb County Extension Service, P.O. Box 127, Lipscomb, Texas 79056

14. Mr. Joe E. Thompson, Box 215, Farnsworth, Texas 79033

15. Mr. Hal Chase, Rt. 1, Box 5E, Perryton, Texas 79070

16. Mr. Richard Burger, Route 1, Box 77, Perryton, Texas 79070

17. Mr. Dean Rea, Texas Grain and Feed Association, Canyon, Texas

18. Mr. Cecil Leicht, Box 112, Farnsworth, Texas 79033

19. Mr. Robert Young, Rt. 1, Box 110, Dalhart, Texas 79022

20. Mr. Tom and Mary Jane Coulter, HCR 3, Box 33, Perryton, Texas 79070

21. Mr. Don H. Marble, Marble Brothers, P.O. Box 68, South Plains, Texas 79258

22. Mr. Wiley Clark, 1006 Michigan, Perryton, Texas 79070

23. Mr. C.J. Kuper, Hartley County, Texas

24. Mr. Winifred C. Bozeman, P.O. Box 346, Perryton, Texas 79070

25. Mr. G. L. Turner, 905 Kentucky, Perryton, Texas 79070

26. Jean Blank Williams, P.O. Box 827, Perryton, Texas 79070

27. Mr. Robert Devin, Randall County Extension Service, 1513 5th Avenue, Canyon, Texas 79015

28. Mr. Tom Butler, Rt. 3, Box 25, Perryton, Texas 79070

29. Mr. Ralph Artz, et. al., Hartley County Farm Bureau Board of Directors, Hartley County, Texas

30. Mr. Neal and Wesley Spurlock, Spurlock Farms, HCR 1, Box 256, Stratford, Texas 79084

31. Mr. James R. Reynolds, HCR 1, Box 172-1, Dalhart, Texas 79022

32. Mr. Kenneth Wooster, Panhandle and Implement Company, 716 North Main, Perryton, Texas 79070

33. Mr. Tommy D. Fondren, P.O. Box 308, Lorenzo, Texas 79343

34. Mr. Jim Hightower, Texas Agriculture Commissioner, Texas Department of Agriculture, Austin, Texas

35. Mr. Joe Randolph, 2302 Baylor Court, Perryton, Texas 79070

Friday, May 19, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Field Hearing
Review Drought Affecting
Texas Agriculture

36. Mr. Gary N. House, Tulia Wheat Growers, P.O. Box 26, Tulia, Texas 79088

37. Mr. Ben D. Davis, 1902 S. Eton, Perryton, Texas 79070

38. Mr. Larry Don Smith, Rt. 1, Box 32a, Perryton, Texas 79070

39. Mr. Victor Stout, Board Member, Rocky Mountain Farmers Union P.O. Box 39628, 4605 Paris Street, Denver, Colorado 80239

40. Mr. Olen Branham, HCR 1, Box 310, Stratford, Texas 79084

41. Mr. Chris Hyndman, Panhandle Grain and Feed Association, P.O. Box 30201, Amarillo, Texas 79120

42. Mr. Truett Borden, Star Route, Grady, New Mexico 88120

43. Mr. Larry Swink, Ochiltree County Farm Bureau, 109 South Main, Perryton, Texas 79070

44. Mr. W. Poatzak, Chairman, Feed and Grain Committee, Ochiltree County Farm Bureau, 109 South Main, Perryton, Texas 79070

Chairman Glickman called the meeting to order for the purpose of reviewing the drought affecting Texas agriculture. All four members made opening comments and then proceeded to hear and question all witnesses in the order in which they appear on pages 2 and 3.

Near the end of the hearing, Mr. de la Garza recognized comments from the audience. There was time to hear testimony from Mr. Freeman and his associates from North Panhandle Bankers Association.

The hearing was adjourned at 11:45 a.m., to reconvene subject to the call of the chair.

Greg Frazier

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Friday, May 19, 1989

(Sub) Committee: Livestock, Dairy, and Poultr
Public Field Hearing

met at 10:00 a.m. o'clock, in Room Sioux City Livestock Stockyards, Sioux City, Iowa

for the purpose of reviewing the inspection and increased importation of Canadian market swine and pork products, and related matters.

The following Members were present:

Mr. Stenholm
Mr. Johnson
Mr. Nagle
Mr. Grandy
Mr.
Mr.
Mr.

Witnesses:

1. Panel:

Ms. Patricia Stolfa, Deputy Administrator, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250

Mrs. Carol M. Harvey, Director, Western Europe and Inter-America Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. 20250

2. Panel:

Mr. Kristian E. Anderson, Attorney, Law Department, The Principle Financial Group, Des Moines, Iowa.

Dr. Glenn A. Grimes, Agricultural Economist, University of Missouri, Columbia, Missouri

3. Panel:

Mr. Eugene D. Leman, Executive Vice President, Pork Division, IBP, Inc., Dakota City, Nebraska 68731

Mr. Michael J. Galm, Manager, Sioux City Livestock Market News Foundatiin, Sioux City, Iowa 51107

4. Mr. Don D. Gingerich, President, National Pork Producers Council, Parnell, Iowa 52325

Mr. Harlan A. Meyer, President, Iowa Pork Producers Association, Sac City, Iowa 50583

Mr. James E. Dailey, South Dakota Pork Producers Council, Jefferson, South Dakota 57038

Mr. Donald L. Boersma, President, Sioux County Pork Producers, Hospers, Iowa 51238

5. Panel:

Mr. Carl C. Johnson, Swine Producer, Ireton, Iowa 51027

Mr. Richard E. Ekstrum, President, South Dakota Farm Bureau, Kimball, South Dakota 57350

Friday, May 19, 1989
Subcommittee on Livestock
Dairy, and Poultry
Public Field Hearing
Review inspection and increased
importation of Canadian market
swine and pork products, and
related matters

Witnesses Continued:

Mr. Dallas Tonsager, President, South Dakota, Farmers Union, Huron, South Dakota 57350

Mr. William A. Sellhorst, National Board Member, National Farmers Organization, Dodge, Nebraska 50841

6. Panel:

Mr. Irv Sether, Pork Producer, Rural Route #1, Box 164, Jackson, Minnesota 56143

Dr. Walter D. Felker, DVM, State Veterinarian, Iowa Department of Agriculture, and Land Stewardship, Wallace Building, 9th & Broad, Des Moines, Iowa 50319

Mr. John R. Long, Pork Producer, Route 1, Box 30, Laurel, Nebraska 68745

Mr. LeRoy M. Erickson, Pork Producer, South Dakota American Agriculture, Rural Route 3, Box 37, Ramona, South Dakota 57054

Chairman Stenholm called the hearing to order for the purpose of reviewing the inspection and increased importation of Canadian market swine and pork products, and related matters.

The witnesses listed on pages 2 and 3 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 2:10 p.m. the meeting was adjourned, subject to the call of the chair.

Dan Waggoner

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date May 20, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Field Hearing

met at 8:30 a.m. o'clock, in Room Fine Arts Auditorium Barton County Community College, Great Bend, Kansas

for the purpose of reviewing drought conditions affecting Kansas agriculture

The following Members were present:

Mr. Glickman	Mr.	Mr. Slattery
Mr. Roberts	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Members Also Present:

Staff present:

Greg Frazier, Subcommittee Staff Director
Anne Keys, Staff Assistant

Witnesses:

1. The Honorable Mike Hayden, Governor of Kansas, Topeka, Kansas

   Acc. by: Mrs. Lois R. Schlickau, President, Kansas Board of Agriculture, Haven, Kansas

   Mr. Sam D. Brownback, Secretary, Kansas Board of Agriculture, Topeka, Kansas

2. Panel:

   Mr. Michael R. Smith, President, WeatherData Inc., Wichita, Kansas

   Dr. James P. Shroyer, Agronomist, Kansas State University, Manhattan, Kansas

   Mr. Rollie W. Stukenholtz, General Manager, Servi-Tech, Inc., Dodge City, Kansas

3. Panel:

   Mr. Robert A. Paris, President, Kansas Association of Wheat Growers, Dighton, Kansas

   Mr. Donald Lundquist, Treasurer and Former President, Kansas Corn Growers Association, Lindsborg, Kansas

   Mr. Thomas R. Tunnell, Executive Director, Kansas Grain and Feed Association, Topeka, Kansas

   Mr. Dana R. Hauck, Former Chairman of Cow/Calf Stocker Council, Kansas Livestock Association, Topeka, Kansas

   Mr. Elmer E. Davis, President, Kansas Soybean Association, Haviland, Kansas

4. Panel:

   Mr. Jim R. Rice, State Spokesman, American Agriculture Movement, Liberal, Kansas

   Mr. Dennis Shirley, Vice Chairman, Wichita District, Farm Credit Council and Farm Credit Bank of Wichita, Norlatur, Kansas

   Ms. Pam Dietz, Member and Producer, Kansas Farm Bureau, Preston, Kansas

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Saturday, May 20, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains,
Public Field Hearing
Review Drought Conditions
Affecting Kansas Agriculture

Witnesses Continued:

Mr. LeRoy Bower, President, National Farmers' Organization, Pittsburg, Kansas

Mr. Tom Giessel, Vice President, Kansas Farmers' Union, Larned, Kansas

5. Panel:

Dr. G. Art Barnaby, Jr. Agricultural Economist, Kansas State University, Manhattan, Kansas

Mr. Larry Kepley, Producer, Ulysses, Kansas

Statements Submitted for the Record:

1. Mr. Thomas V. Link, Director, Federal Crop Insurance Corporation, Field Service Office, 2601 Anderson Avenue, Manhattan, Kansas 66502

2. Mr. Ronald D. Stice, Operations Manager, Farmers Co-operative Union, 512 A Street, Bushton, Kansas 67427

3. Mr. Jack Staatz, Board Member, Kansas Farmers Union, Dickinson County, Kansas

4. Mr. John Sullivan, Director of Mid America Dairymen, Superior, Nebraska

5. Mr. Jim Pelton, President, Colorado Association of Wheat Growers, 5500 South Quebec Street, Suite 111, Englewood, Colorado 80111

6. Mr. Ralph Smith, Producer, Kalvesta, Kansas 67856

7. Mr. Joe Converth, Producer, 2208 Hart Avenue, Dodge City, Kansas 67801

8. Mr. Bart Boyd, Chairman, Ford County Wheat Growers, Wright, Kansas

9. Mr. Don Christy, Ag Management Service, 310 Court Street, Scott City, Kansas 67871

Saturday, May 20, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Field Hearing
Review Drought Conditions
Affecting Kansas Agriculture

Chairman Glickman called the meeting to order for the purpose of reviewing the drought affecting Kansas agriculture. All three members made opening comments and then proceeded to hear and question all witnesses in the order in which they appear on pages 2 and 3 of these minutes.

The hearing was adjourned at 12:30 p.m., to reconvene subject to the call of the chair.

Greg Frazier

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, May 24, 1989

(Sub) Committee Conservation, Credit, and Rural Development

Public Hearing

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the futures industry investigation

The following Members were present

Mr. English	Mr. Coleman	Mr.
Mr. Tallon	Mr. Combest	Mr.
Mr. Penny	Mr. Grandy	Mr.
Mr. Stallings	Mr.	Mr.
Mr. Harris	Mr	Mr
Mr. Espy	Mr	Mr
Mr. Sarpalius	Mr	Mr
Mr. Long	Mr	Mr
Mr. de la Garza	Mr	Mr
Mr. ex officio	Mr	Mr
Mr.	Mr	Mr
Mr.	Mr	Mr
Mr.	Mr	Mr
Mr.	Mr	Mr
Mr.	Mr	Mr
		Mr.
		Mr

Staff Present:

Fred Clark, Majority Associate Counsel
Bill Cherry, Subcommittee Staff Director
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk

Witnesses:

1. Mr. Bill Cherry, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, House Committee on Agriculture, Washington, D.C.

Statement Submitted for the Record:

1. Mr. James E. McDonald, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, House Committee on Agriculture, Washington, D.C.

Wednesday, May 24, 1989
Subcommittee on Conservation,
Credit, and Rural
Development
Public Hearing
Futures industry investigation

Chairman English called the meeting to order to review the facts the Subcommittee staff has found in the inquiry into the effectiveness of the futures industry regulatory structure. The items covered at today's meeting included: status of audit trails with special emphasis on timing trades to the nearest minute, price change registers and fast markets, trading abuses associated with dual trading, and technology which might be available for improving the timing of trades. Chairman English made brief opening comments and announced two further briefings on sales practices and trade practices.

The witness listed on page 2 of these minutes was recognized to brief the Subcommittee. Following his presentation, Mr. Cherry was questioned by the Members of the Subcommittee.

At 12:20 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, May 25, 1989

(SS5) Committee: Full

Business Meeting

met at 9:35 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 2042, a bill to allow producers to provide county committees with actual yields; H.R. 2469, a bill to limit previous owner's right of first refusal in cases of fraud or resale of property by FmHA and FCS; H.R. 2467, the "1988 Disaster Assistance Extension Act"; and watershed projects for Howard Creek Watershed, West Virginia and Upper Locust Creek Watershed, Missouri and Iowa

The following Members were present:

Mr. de la Garza
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Stenholm
Mr. Volkmer
Mr. Tallon
Mr. Staggers
Mr. Olin
Mr. Penny
Mr. Nagle
Mr. Jontz
Mr. Johnson
Mr. Harris

Mr. Espy
Mr. Sarpalius
Mr. Long
Mr. Dyson
Mr. Lancaster
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Roberts
Mr. Emerson
Mr. Gunderson
Mr. Smith
Mr. Combest
Mr. Schuette
Mr. Grandy
Mr. Herger
Mr. Holloway
Mr. Walsh
Mr. Grant
Mr.
Mr.

Staff Present:

Bert R. Peña
Dan Brinza
John E. Hogan
Vernie Hubert
Joe Muldoon
Alice Devine
Fred Clark

Bill Cherry
Howard Conley
Jim Davis
Dave Ebersole
Greg Frazier
Charles Hilty
Cliff Humphrey

James R. Lyons
William E. O'Conner, J
Parks Shackelford,
Glenda Temple
Francie Monaghan

Witnesses:

Present from the Administration to respond to questions:

Mr. John Campbell, Deputy Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C.

Mr. Tom VonGarlem, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

Thursday, May 25, 1989
Full Committee
Business Meeting
H.R. 2042, actual yields;
H.R. 2469, owners right of
first refusal in FmHA and
FCA sales; H.R. 2467, 1988
Disaster Assistance Extension
Act; and watershed projects

Action Taken:

-- Without objection de la Garza substitute amendment to H.R. 2042 considered as original text for purposes of amendment.

-- By voice vote amendment in the nature of a substitute to H.R. 2042 agreed to.

-- By voice vote H.R. 2042, as amended, ordered reported to the House.

-- Without objection de la Garza substitute amendment to H.R. 2469 considered as original text for purposes of amendment.

-- Without objection de la Garza suggested clarifying language to section (2) adopted.

-- By voice vote amendment in the nature of a substitute to H.R. 2469, as amended, agreed to.

-- Without objection English motion for staff to draft language to reflect Committee's intent approved.

-- By voice vote H.R. 2469, as amended, ordered reported to the House.

-- Without objection Huckaby amendment defining "damaging weather" to Marlenee amendment to H.R. 2467 adopted.

-- By voice vote Marlenee amendment on yield provisions and adverse weather, as amended, agreed to.

-- By show of hands vote of 13 yeas-11 nays Huckaby amendment on producer elibility approved.

-- By voice vote Volkmer motion to reconsider the vote on the Huckaby amendment on producer eligibility agreed to.

-- Without objection Huckaby amendment on producer eligibility withdrawn for redrafting for possible floor consideration.

Thursday, May 25, 1989
Full Committee
Business Meeting
H.R. 2042, actual yields;
H.R. 2469, owners right of first refusal in FmHA and FCA sales; H.R. 2467, 1988 Disaster Assistance Extension Act; and watershed projects

Action Taken Continued:

-- By voice vote Grandy amendment setting cap on legislation adopted.

-- By voice vote Roberts amendment making bill consistent with benefits and requirements of 1988 disaster bill approved.

-- By show of hands vote of 9 yeas-9 nays Volkmer motion to make Roberts amendment the language as contained in the conference report to accompany the 1988 bill not approved.

-- Without objection Grant amendment to add study of insurance for domestic, commercial, small business sized producers and harvesters of finfish, shrimp, crawfish, mollusks, or other seafood varieties adversely affected by abnormal weather withdrawn in favor of a Committee letter.

-- By voice vote Espy amendment on alternative crop (canola) planting adopted.

-- By show of hands vote of 6 yeas-11 nays Johnson amendment providing benefits to honey producers not agreed to.

-- By show of hands vote of 8 yeas-7 nays Schuette amendment and report language on nonprograms crops, especially dry beans, agreed to.

-- By voice vote Madigan amendment on providing assistance to producers of nonprogram crops who harvested a crop not agreed to, and suggestion of report language for Department of Agriculture to carry out Committee's intent to assist such producers adopted.

-- Without objection Marlenee amendment clarifying "feed on hand" withdrawn in favor of report language.

-- Without objection Volkmer amendment setting time deadline to Roberts amendment on water development projects approved.

Thursday, May 25, 1989
Full Committee
Business Meeting
H.R. 2042, actual yields;
H.R. 2469, owners right of
first refusal in FmHA and
FCA sales; H.R. 2467, 1988
Disaster Assistance Extension
Act; and watershed projects

Action Taken Continued:

-- By voice vote Roberts water development project amendment, as amended, and Smith report language, as offered by Mr. Roberts, adopted.

-- By voice vote Coleman amendment providing additional assistance to livestock farmers to rehabilitate farm ponds approved.

-- By voice vote Nagle amendment providing new conservation provisions when haying and grazing permitted on CRP acres agreed to.

-- Without objection Jontz amendment on aflatoxin control withdrawn after assurance of Subcommittee hearings and a possible separate bill.

-- By voice vote Coleman amendment providing for an emergency community water assistance grant program agreed to.

-- By voice vote H.R. 2467, as amended, ordered reported to the House.

-- By voice vote watershed projects for Howard Creek Watershed, West Virginia, and Upper Locust Creek Watershed, Missouri and Iowa, approved.

Chairman de la Garza called the meeting to order for the purpose of considering pending scheduled business.

The first order of business was consideration of H.R. 2042, a bill to amend title V of the Agricultural Act of 1949 to allow producers to provide the appropriate county committees with actual yields for the 1989 and subsequent crop years. (See attached copy of bill as introduced.) Without objection the Subcommittees on Wheat, Soybeans, and Feed Grains and Cotton, Rice, and Sugar were discharged from further consideration of the bill.

Thursday, May 25, 1989
Full Committee
Business Meeting
H.R. 2042, actual yields;
H.R. 2469,owners right of
first refusal in FmHA and
FCA sales; H.R. 2467, 1988
Disaster Assistance Extension
Act; and watershed projects

The Chairman called attention to the attached amendment in the nature of a substitute. (See also explanation and section-by-section analysis attached.) He asked unanimous consent that the amendment in the nature of a substitute be considered as original text for purposes of amendment and there was no objection. Mr. Jontz, author of the bill, Mr. Madigan, the Ranking Minority Member of the Committee, Mr. Glickman, Chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains, and Mr. Huckaby, Chairman of the Subcommittee on Cotton, Rice, and Sugar, were recognized to explain the legislation. Discussion occurred.

By a voice vote the amendment in the nature of a substitute was agreed to. Whereupon, by a voice vote H.R. 2042, as amended, was ordered reported to the House (25 Members present and voting).

The next item on the agenda was consideration of H.R. 2469, a bill to limit a previous owner's right of first refusal in the case of fraud or resale for sales of farm property by the Farmers Home Administration and the Farm Credit System. (See copy of bill attached.)

The Chairman called the Committee's attention to the attached amendment in the nature of a substitute (see also attached explanation and section-by-section analysis of amendment). The Chairman asked unanimous consent that the substitute amendment be considered as original text for purposes of amendment, and there was no objection. Without objection the Subcommittee on Conservation, Credit, and Rural Development was discharged from further consideration of the legislation.

Mr. English, the author of the bill and Chairman of the Subcommittee on Conservation, Credit, and Rural Development, was recognized to explain the legislation. Discussion occurred.

Chairman de la Garza suggested that section (2) be amended to read "who has been finally convicted of criminal fraud against the United States Government". Discussion continued. Without objection, the Chairman's suggested language was adopted.

Thursday, May 25, 1989
Full Committee
Business Meeting
H.R. 2042, actual yields;
H.R. 2469, owners right of first refusal in FmHA and FCA sales; H.R. 2467, 1988 Disaster Assistance Extension Act; and watershed projects

Mr. English asked unanimous consent that the staff draw up language to meet the Committee's intent, as reflected in the discussion, and there was no objection.

By a voice vote the substitute amendment, as amended, was agreed to, and by a voice vote H.R. 2469, as amended, was ordered reported favorably to the House (28 Members present and voting).

Mr. English assured the Members that the Subcommittee would hold hearings on the issues raised concerning potential fraud to make sure current procedures are adequate.

The Chairman called for the consideration of H.R. 2467, a bill entitled the "1988 Disaster Assistance Extension Act". (See attached copy of bill, brief explanation, and section-by-section analysis.) The Subcommittees on Wheat, Soybeans, and Feed Grains, Cotton, Rice, and Sugar, Tobacco and Peanuts, Conservation, Credit, and Rural Development, and Forests, Family Farms, and Energy were discharged from further consideration of the legislation.

Discussion occurred. The Committee noted the attached departmental report on the Glickman bill, H.R. 2232, a similar measure.

Mr. Marlenee offered the attached amendments, numbered 1, 2, and 3, en bloc. The amendments were conforming to de minimus yield provisions and improvement of "adverse weather" definition. Discussion occurred.

Mr. Huckaby offered the attached amendment on definition of "damaging weather" to the Marlenee amendment and discussion continued. Without objection, the Huckaby amendment was agreed to. Whereupon, by a voice vote the Marlenee en bloc amendments, as amended, were adopted.

Mr. Huckaby offered the attached amendment on producer eligibility. Mr. Huckaby also distributed the attached letter written to the Department in the last Congress clarifying Congressional intent on this issue. Discussion occurred. By a show of hands vote of 13 yeas-11 nays the amendment was agreed to.

Thursday, May 25, 1989
Full Committee
Business Meeting
H.R. 2042, actual yields;
H.R. 2469, owners right of first refusal in FmHA and FCA sales; H.R. 2467, 1988 Disaster Assistance Extension Act; and watershed projects

Mr. Smith asked that the Department give the Committee an estimate of the number of people that would be included under the amendment and the costs that would occur. Mr. Stenholm advised that he had voted in the affirmative on the amendment in order to move to reconsider the amendment when figures are available.

Discussion continued on the Huckaby amendment. Mr. Volkmer, as one voting in the affirmative, moved to reconsider the vote on the Huckaby amendment. By a voice vote the motion was agreed to, and Mr. Stenholm suggested that report language should be added requesting that ASCS consider using the county committee system. Mr. Huckaby withdrew the amendment to perfect for possible floor consideration.

Mr. Grandy offered the attached amendment to set a cap on outlays to carry out the provisions of the legislation. Discussion occurred and by a voice vote the Grandy amendment was adopted.

Mr. Roberts offered the attached amendment to make provisions of the bill consistent with the benefits and requirements of last year's program on crop insurance. Discussion occurred. Mr. English asked unanimous consent that the staff be given permission to look at the Roberts amendment to make sure it is consistent with the Committee's intent and to place it at the appropriate point in the bill. There was no objection. Discussion continued and by a voice vote the Roberts amendment was agreed to.

Discussion continued on how the Roberts amendment should be drafted to conform with the Committee's intent. Mr. Volkmer moved that the language should be as stated in the Conference Report on last year's disaster bill. Discussion continued and by a show of hands vote of 9 yeas-9 nays the Volkmer motion was not agreed to.

Mr. Grant offered the attached amendment to add a study to the report of the Commission for the Improvement of the Federal Crop Insurance Program on the feasibility of a program of insurance for domestic, commercial, small business sized producers and harvesters of finfish, shrimp, crawfish, mollusks, or other seafood varities adversely affected by abnormal weather patterns. Discussion occurred. It was pointed out that the Committee could request the study by letter to the Commission, and the amendment was withdrawn.

Thursday, May 25, 1989
Full Committee
Business Meeting
H.R. 2042, actual yields;
H.R. 2469, owners right of first refusal in FmHA and FCA sales; H.R. 2467, 1988 Disaster Assistance Extension Act; and watershed projects

Mr. Espy offered the attached amendment on alternative crop (canola) planting. Discussion occurred and by a voice vote the Espy amendment was approved.

Discussion occurred on the need to analyze the costs contained in the bill to make sure that the amendments which are adopted do not increase the cost of the legislation.

Mr. Johnson offered the attached amendment to provide benefits for honey producers. Discussion occurred and by a show of hands vote of 6 yeas-11 nays the amendment was not agreed to.

Mr. Schuette offered the attached amendment and report language on nonprogram crops, especially dry beans. Discussion occurred and by a show of hands vote of 8 yeas-7 nays the amendment was adopted.

Mr. Madigan offered the attached amendment on providing assistance to producers of nonprogram crops who suffered disasters that made their crops unmarketable but were denied aid because the crops could be harvested. Discussion occurred and by a voice vote the amendment was not approved. The Chairman stated that report language could be included on Congressional intent and the charge of the Department in carrying out the 1988 Act. There was no objection.

Mr. Marlenee offered the attached amendment on clarification of "feed on hand" determination. Discussion occurred and it was pointed out that report language could be used in this instance. Whereupon, without objection the amendment was withdrawn.

Mr. Roberts offered the attached amendment, together with report language by Mr. Smith, on water development projects. Without objection, the Roberts amendment was reformed to make the proposal discretionary ("shall" to "may"). Mr. Volkmer stated he would like to insert a time deadline and without objection the Committee decided on a 90-day report limit. Other Members posed questions that should be added in the Smith report language and were given permission to add the questions to the report language. Whereupon, by a voice vote the Roberts amendment, as amended, and the Smith report language were approved.

Thursday, May 25, 1989
Full Committee
Business Meeting
H.R. 2042, actual yields;
H.R. 2469, owners right of first refusal in FmHA and FCA sales; H.R. 2467, 1988 Disaster Assistance Extension Act; and watershed projects

Mr. Coleman offered the attached amendment to provide discretionary monies for additional assistance to livestock farmers to rehabilitate farm ponds. Discussion occurred and by a voice vote the amendment was adopted.

Mr. Nagle offered the attached amendment to provide for new conservation provisions if the Secretary allows haying or grazing on CRP acres. Discussion occurred and by a voice vote the Nagle amendment was agreed to.

Mr. Jontz offered the attached amendment on aflatoxin control. Discussion occurred and Mr. Glickman assured Mr. Jontz that his Subcommittee would hold a hearing and possibly proceed with a separate bill. Whereupon, Mr. Jontz withdrew the amendment without objection.

Mr. Coleman offered the attached amendment providing for an emergency community water assistance grant program. Discussion occurred and by a voice vote the Coleman amendment was agreed to.

Mr. Glickman moved that H.R. 2467, as amended, be ordered favorably reported to the House. By a voice vote the motion was approved and H.R. 2467, as amended, was ordered reported to the House with the recommendation that it do pass.

Staff was given permission to make any necessary clerical and technical changes to all of the bills reported.

Mr. English, Chairman of the Subcommittee on Conservation, Credit, and Rural Development, was recognized to explain the provisions of pending watershed projects for Howard Creek Watershed, West Virginia, and Upper Locust Creek Watershed, Missouri and Iowa (summaries attached). Discussion occurred and Mr. English moved the approval of the projects. By a voice vote the watershed projects were approved.

At 2:15 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

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101ST CONGRESS
1ST SESSION

H. R. 2042

To amend title V of the Agricultural Act of 1949 to allow producers to provide the appropriate county committees with actual yields for the 1989 and subsequent crop years.

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 1989

Mr. JONTZ introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To amend title V of the Agricultural Act of 1949 to allow producers to provide the appropriate county committees with actual yields for the 1989 and subsequent crop years.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 506 of the Agricultural Act of 1949 (7 U.S.C. 1466) is amended by inserting at the end thereof the following new subsection:

"(e)(1) With respect to the 1989 and subsequent crop years, the Secretary shall allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop.

"(2) The Secretary shall provide timely notification to producers of the program set forth in paragraph (1).

"(3) With respect to the 1989 and each subsequent crop year, the Secretary shall conduct a study of the potential change in the aggregate annual cost of the alternate methods of determining farm program payment yields in lieu of the manner prescribed in subsection (c), and the impact of such alternatives on each commodity program and on producers participating in the programs. Alternate methods of determining yields to be studies should include:

"(A) The yield derived pursuant to paragraph (1).

"(B) The yield derived by permitting producers to use an average of 3 of the last 5 years actual production, excluding the year in which such yield was the highest and the year in which such yield was the lowest.

"(C) Requiring all participating producers to prove yields each year and using either the method described in subparagraph (A) or (B) to determine yields for program payments.

Not later than January 30, 1990, the Secretary shall transmit the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2042

Strike all after the enacting clause and insert the following:

SECTION 1. SUBMISSION OF ACTUAL YIELD DATA TO COUNTY COMMITTEES.

Section 506 of the Agricultural Act of 1949 (7 U.S.C. 1466) is amended by adding at the end the following new subsection:

"(e)(1) With respect to the 1989 and subsequent crop years, the Secretary shall allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop. The Secretary shall maintain such data for at least five crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs for the 1989 and subsequent crops.

"(2) The Secretary shall provide timely notification to producers of the provisions of paragraph (1).

"(3) With respect to the 1989 crop year, the Secretary shall determine what the costs of each commodity program would be if farm program payment yields were determined in accordance with the methods prescribed in paragraph (4) and what the impact of such alternative methods would be on each commodity program and on producers participating in each commodity program.

"(4) The alternative methods of determining program payment yields for purposes of paragraph (3) shall include, at a minimum:

"(A) using producers' actual yields for the current crop year;

"(B) allowing producers the option of choosing to use

their actual yields or the county average yield for the current crop year; and

"(C) the yield derived on the basis of the average of the actual yield per harvested acre for the crop for each of the five crop years immediately preceding such crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm.

Not later than January 30, 1990, the Secretary shall report the determinations under this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

SEC. 2. SUBMISSION OF SOYBEAN ACTUAL YIELD DATA TO COUNTY COMMITTEES.

With respect to the 1989 and 1990 crop years, the Secretary shall allow producers of soybeans to provide to county committees (as defined in section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462)) data with respect to the actual yield for each farm for each crop of soybeans. The Secretary shall maintain such data for at least five crop years after receipt in such a manner as to be easily accessible. The Secretary shall provide timely notification to producers of the provisions of this section.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2042

BRIEF EXPLANATION

H.R. 2042, as amended, would require the Secretary of Agriculture (1) to allow producers of wheat, feed grains, upland cotton, rice, and soybeans to provide actual yield data for the 1989 and 1990 crops to county committees, (2) to notify producers of the opportunity to submit such data, and (3) to maintain such data for at least five crop years.

The bill would also require the Secretary to determine the costs to the wheat, feed grains, upland cotton, and rice programs of using specified alternative methods, including the use of actual yields, to determine program payment yields for the 1989 crop year, and the impact of using such alternative methods on each commodity program and on program participants.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2042

Strike all after the enacting clause and insert the following:

SECTION 1. SUBMISSION OF ACTUAL YIELD DATA TO COUNTY COMMITTEES.

Section 506 of the Agricultural Act of 1949 (7 U.S.C. 1466) is amended by adding at the end the following new subsection:

"(e)(1) With respect to the 1989 and subsequent crop years, the Secretary shall allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop. The Secretary shall maintain such data for at least five crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs for the 1989 and subsequent crops.

"(2) The Secretary shall provide timely notification to producers of the provisions of paragraph (1).

"(3) With respect to the 1989 crop year, the Secretary shall determine what the costs of each commodity program would be if farm program payment yields were determined in accordance with the methods prescribed in paragraph (4) and what the impact of such alternative methods would be on each commodity program and on producers participating in each commodity program.

"(4) The alternative methods of determining program payment yields for purposes of paragraph (3) shall include, at a minimum:

"(A) using producers' actual yields for the current crop year;

"(B) allowing producers the option of choosing to use

their actual yields or the county average yield for the current crop year; and

"(C) the yield derived on the basis of the average of the actual yield per harvested acre for the crop for each of the five crop years immediately preceding such crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm.

Not later than January 30, 1990, the Secretary shall report the determinations under this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

SEC. 2. SUBMISSION OF SOYBEAN ACTUAL YIELD DATA TO COUNTY COMMITTEES.

With respect to the 1989 and 1990 crop years, the Secretary shall allow producers of soybeans to provide to county committees (as defined in section 502 of the Agricultural Act of 1949 (7 U.S.C. 1462)) data with respect to the actual yield for each farm for each crop of soybeans. The Secretary shall maintain such data for at least five crop years after receipt in such a manner as to be easily accessible. The Secretary shall provide timely notification to producers of the provisions of this section.

I

101ST CONGRESS
1ST SESSION

H. R. 2469

To limit a previous owner's right of first refusal in the case of fraud or resale for sales of farm property by the Farmers Home Administration and the Farm Credit System.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 1989

Mr. ENGLISH introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To limit a previous owner's right of first refusal in the case of fraud or resale for sales of farm property by the Farmers Home Administration and the Farm Credit System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Section 335(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)(1)) is amended by—

(1) in subparagraph (C) striking "The Secretary" and inserting "Except as provided in subparagraph (D), the Secretary"; and

(2) redesignating subparagraphs (D) and (E) as (F) and (G) and adding the following new subparagraphs:

"(D) The Secretary shall not give preference in the sale of property to:

"(i) any person described in subparagraph (C) who has been convicted within the preceding five years of defrauding the United States Government (including any agency or authority of the Government of the United States, whether or not it is subject to review by another agency);

"(ii) the spouse or child of any person described in clause (i); or

"(iii) a stockholder in a corporation, held exclusively by members of the same family, if such corporation has been convicted within the preceding five years of defrauding the United States Government (including any agency or authority of the Government of the United States, whether or not it is subject to review by another agency).

"(E) Any person who is given preference in the purchase of real property from the Secretary under subparagraph (C) shall not resell such real property within two years after such purchase. However, this prohibition shall not apply in the case of a person who is deceased or is declared incompetent by a court of competent jurisdiction after such pur-

chase. The Secretary is authorized to enforce the prohibition on the resale of such property with liens or other encumbrances as determined necessary by the Secretary.".

SEC. 2. AMENDMENT TO THE FARM CREDIT ACT OF 1971.

Section 4.36 of the Farm Credit Act of 1971 (12 U.S.C. 2219a) is amended by adding at the end thereof the following new subsections:

"(j) FORFEITURE OF RIGHT.—A previous owner who has been convicted within the preceding five years of defrauding either—

"(1) the Farm Credit System or

"(2) the United States Government (including any agency or authority of the Government of the United States, whether or not it is subject to review by another agency).

shall not have a right of first refusal under this section.

"(k) RESALE LIMITATION.—Any previous owner who is given preference in the purchase of real property from an institution of the System under this section shall not resell such real property within two years after such purchase. However, this prohibition shall not apply in the case of a previous owner who is deceased or is declared incompetent by a court of competent jurisdiction after such purchase. An institution of the System is authorized to enforce the prohibition on the resale of such property with liens or other encum-

brances, pursuant to regulations issued by the Farm Credit Administration.".

SEC. 3. IMPLEMENTING REGULATIONS.

The Farm Credit Administration shall issue regulations to implement section 2 of this Act not later than one hundred twenty days after the date of enactment of this Act.

SEC. 4. EFFECTIVE DATE.

The amendments made by sections 1 and 2 of this Act shall be effective only for purchases of property by a borrower-owner, previous owner, or other person made after the date of enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2469

Strike all after the enacting clause and insert the following:

SECTION 1. AMENDMENT TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Section 335(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C 1985(e)(1)) is amended by --

(1) in subparagraph (C) striking "The Secretary" and inserting "Except as provided in subparagraph (D), the Secretary"; and

(2) redesignating subparagraphs (D) and (E) as (F) and (G) and adding the following new subparagraphs:

"(D) The Secretary shall not give preference in the sale of property to:

"(i) any person described in subparagraph (C) who has been convicted within the preceding five years of defrauding the United States Government (including any agency or authority of the Government of the United States, whether or not it is subject to review by another agency);

"(ii) the spouse or child of any person described in clause (i); or

"(iii) a stockholder in a corporation, held exclusively by members of the same family, if such corporation or any stockholder therein has been convicted within the preceding five years of defrauding the United States Government (including any agency or authority of the Government of the United States,

whether or not it is subject to review by another agency).

"(E) Any person who is given preference in the purchase of real property from the Secretary under subparagraph (C) shall not resell such real property within two years after such purchase. However, this prohibition shall not apply in the case of a person who, after such purchase, has died or been declared incompetent by a court of competent jurisdiction. The Secretary is authorized to enforce the prohibition on the resale of such property with liens or other encumbrances as determined necessary by the Secretary.".

SEC. 2. AMENDMENT TO THE FARM CREDIT ACT OF 1971.

Section 4.36 of the Farm Credit Act of 1971 (12 U.S.C. 2219a) is amended by adding at the end the following new subsections:

"(j) FORFEITURE OF RIGHT. -- A previous owner who has been convicted within the preceding five years of defrauding either--

"(1) the Farm Credit System or

"(2) the United States Government (including any agency or authority of the Government of the United States, whether or not it is subject to review by another agency)

shall not have a right of first refusal under this section.

"(k) RESALE LIMITATION. -- Any previous owner who purchases real property from an institution of the System by the exercise of a right of first refusal under this section, shall not resell such real property within two years after such purchase. However, this prohibition shall not apply in the case of a

previous owner who, after such purchase, has died or been declared incompetent by a court of competent jurisdiction. An institution of the System is authorized, pursuant to regulations issued by the Farm Credit Administration, to enforce the prohibition on the resale of such property with liens or other encumbrances.".

SEC. 3. IMPLEMENTING REGULATIONS.

The Farm Credit Administration shall issue regulations to implement section 2 of this Act not later than 120 days after the date of enactment of this Act.

SEC. 4. EFFECTIVE DATE.

The amendments made by sections 1 and 2 of this Act shall be effective only for sales of property by the Secretary or by an institution of the Farm Credit System made after the date of enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2469
BRIEF EXPLANATION

H.R. 2469, as amended, would prevent the Secretary of Agriculture or any institution of the Farm Credit System from giving preference or granting a right of first refusal, with respect to the purchase of real property acquired by the Secretary or such institution, to the previous owner or certain others who have been convicted within the preceding five years of defrauding the United States government.

The bill would also prohibit the resale of real property purchased from the Secretary or an institution of the System, by the exercise of a right of first refusal or the grant of a preference, for a period of two years after such purchase.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2469

SECTION-BY-SECTION ANALYSIS

Section 1--Amendment to the Consolidated Farm and Rural Development Act

Section 1 would add two new subparagraphs to section 335(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)), which concerns in part the preference given in connection with the purchase of real property, used to secure any loan made to a borrower (referred to as a "borrower-owner"), acquired by the Secretary of Agriculture from such borrower. Section 1 also redesignates subparagraphs (D) and (E) of section 335(e) as (F) and (G) and adds new subparagraphs (D) and (E).

Subparagraph (D) would prevent the Secretary from granting a preference, with respect to the purchase of real property acquired by the Secretary, to:

1) the immediate previous borrower-owner,

2) the spouse or child of the previous borrower-owner,

3) a stockholder in a borrower-owner corporation held exclusively by members of the same family,

4) the immediate previous family-size farm operator of the property, or

5) the operator of any other family-size or smaller farm

who has been convicted within the preceding five years of defrauding the U.S. government or any of its agencies, to the spouse or child of any such person, or to any stockholder in a

family-held corporation in which the corporation or any of its stockholders have been similarly convicted.

Subparagraph (E) would prohibit the resale of real property, which is purchased from the Secretary by a borrower who is given preference in such purchase, for a period of two years after such a purchase. This prohibition would not apply to persons who have died or been declared incompetent since such purchase. The Secretary may enforce the prohibition by encumbering the title of the real property with liens or other devices as the Secretary deems necessary.

Section 2--Amendment to the Farm Credit Act of 1971

Section 2 would add two new subsections to section 4.36 of the Farm Credit Act of 1971 (12 U.S.C. 2219a), which concerns the right of first refusal to purchase real estate that is acquired by an institution of the Farm Credit System as a result of a loan foreclosure or a voluntary conveyance by a borrower (referred to as a "previous owner").

Subsection (j) would eliminate the right of first refusal, with respect to the purchase of real estate acquired by an institution, for a previous owner who has been convicted of defrauding the U.S. government (including any of its agencies) or the Farm Credit System within the preceding five years.

Subsection (k) would prohibit the resale of real property, which is purchased from an institution of the System by the exercise of a right of first refusal, for a period of two years after such a purchase. This prohibition would not apply to

persons who have died or been declared incompetent. The institution may enforce the prohibition on resale by encumbering the title of the real property with liens or other devices as provided for by regulations issued by the Farm Credit Administration.

Section 3--Authorization to implement regulations

Section 3 would authorize and direct The Farm Credit Administration to issue regulations to implement section 2 of the bill within 120 days after the date of enactment.

Section 4-- Effective date

Section 4 provides that the amendments made by sections 1 and 2 of the bill would be effective only for sales of property by the Secretary of Agriculture or by an institution of the Farm Credit System made after the date of enactment.

(H.R. 2467 is held in the committee files.)

1988 DISASTER ASSISTANCE EXTENSION ACT

H. R. 2067 will extend similar disaster assistance provided under the Disaster Assistance Act of 1988 to producers of 1989 crops.

Bill Summary

Assistance to Crop Producers

- -- Provides disaster payments to producers of annual crops who lose 35 percent of 1989 crop due to damaging weather.
- -- Supplemental payments: Provides basic income protection for crop producers with total or near total losses by making additional assistance available to those who suffer losses in excess of 75 percent. This would be provided in the form of an additional direct payment for such excess losses equal to 25 percent of the applicable payment rate.
- -- Limits combined crop insurance benefits and disaster payments to an amount that does not exceed income that would result from normal yields.
- -- Requires those who elect to receive disaster payments under this program to purchase the minimum amount of Federal crop insurance, if available in their county, for the 1990 crop year. This requirement does not apply if the premium would exceed 25 percent of the benefits received under the disaster program, or if the insurance premium increased more than 25 percent between 1989 and 1990. Provision is made for farmers to appeal to local ASCS committees to waive this requirement if the farmer can demonstrate that purchase of crop insurance would be an undue hardship.
- -- Prohibits disaster benefits to any farmer with more than $2 million in estimated 1989 gross farm revenues.

Extent of disaster coverage

- -- Extends disaster benefits under the bill to those producers who suffer losses due to drought, hail, excessive moisture, freeze, or related conditions.

Payment Limitations

- -- Disaster payments could not exceed $100,000 for crop farmers.
- -- Combined benefits to each person (including livestock assistance) could not exceed $100,000.

Advance Deficiency Payments

- -- Producers will not be required to repay advance deficiency payments on any unit of production that failed or was prevented from planting due to disaster, unless that unit of production received a disaster payment.

Forestry Provisions

- -- Directs USDA to provide assistance in the form of 65 percent

of the costs of replanting (or an equivalent amount of seedlings, at USDA discretion) for drought losses to tree seedlings that produce an annual crop or are grown for commercial harvest. The benefits are limited to tree farmers and commercial growers who own 1,000 acres or fewer and planted within the last two years. Assistance is capped at $25,000 per person.

Conservation and Wildlife Enhancement

-- Encourages conservation and wildlife enhancement practice on CRP lands by refunding a producer's rental payments withheld on lands hayed, to the extent the producer pays the cost of carrying out such practices (refunds limited to one-half the cost of practices).

SECTION-BY-SECTION ANALYSIS

Section 1--Short title and table of contents

Section 1 will provide that the bill may be cited as the "1988 Disaster Assistance Extension Act". It also contains a table of contents listing the sections of the bill.

TITLE I--EMERGENCY CROP LOSS ASSISTANCE FOR ANNUAL CROPS

Title I contains free-standing provisions that will require disaster payment to be made to producers of all commercial 1989 crops damaged or destroyed by damaging weather conditions in 1988 or 1989. (NOTE: The disaster payments program under title I will be an extension of the assistance provided in 1988 by the Disaster Assistance Act of 1988 (Public Law 100-387).

Section 101--Payments to program participants for target price commodities

Section 101(a), in paragraph (1), will provide that the 1989 disaster payment and related provisions of section 101 will be effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice.

In addition, paragraph (1) will require the Secretary of Agriculture to make a disaster payment available to eligible producers, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, that the producers are able to harvest on the farm is less than the result of multiplying 65 percent of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary) for such crop.

The disaster payment will be made available to the producers at a rate equal to--

(1) 65 percent of the established price for the crop for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(2) 90 percent of the established price for the crop for any deficiency in production greater than 75 percent for the crop.

(NOTE: Farm program payment yields are the yields assigned to program participants under the target price programs.)

Section 101(a), in paragraph (2), will provide that disaster payments could not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity. (NOTE: The permitted acreage for a program participant is the portion of the producers crop acreage base that he is permitted to plant to a crop under the production adjustment program for the crop.)

In addition, disaster payments could not be made available to producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107 of the bill.

Section 101(a), in paragraph (3), will reduce the total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm by the quantity on which a disaster payment is made to the producers for the crop.

Section 101(b), in paragraph (1), will provide that subsection (b) will apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1989 crop of wheat, feed grains, upland cotton, or rice.

Section 101(b), in paragraph (2), if because of damaging weather or related condition in 1988 or 1989 the total quantity of the 1989 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of such natural disaster, as determined by the Secretary) for such crop (hereinafter referred to as the "qualifying amount"), the producers will not be required to refund any advance deficiency payment made to the producers for such crop with respect to that portion of the deficiency in production that does not exceed 35 percent of the qualifying amount.

In addition, producers on a farm will not be eligible for the waiver of repayment of advance deficiency payments, unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107.

Section 101(b), in paragraph (3), will require the Secretary to allow producers on a farm that elected, prior to the date of enactment of the bill, not to receive advance deficiency payments made available for the 1989 crop, to elect (within 30 days after the date of the enactment of the bill) whether to receive these advance deficiency payments.

Section 101(b), in paragraph (4), will provide that for the 1989 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop must be refunded, the refund will not be required prior to July 31, 1990, for that portion of the crop for which a disaster payment is made under section 101(a).

Section 102--Payments to program nonparticipants for target price commodities

Section 102, in subsection (a), will provide disaster payments for producers on a farm who elected not to participate in the production adjustment programs for the 1989 crop of wheat,

feed grains, upland cotton, extra long staple cotton, and rice. If the Secretary of Agriculture determines that because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that producers are able to harvest on the farm is less than the result of multiplying 65 percent of the county average yield established by the Secretary for such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under section 102(b), the Secretary must make a disaster payment available to these producers. The disaster payment will be made to the producers at a rate equal to --

(1) 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(2) 90 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

Section 102, in subsection (b), will require the Secretary to provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting to the 1989 crop of the commodity for harvest because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary. This acreage may not exceed the greater of--

(1) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted to the commodity for harvest in 1989; or

(2) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1985, 1986, and 1987 minus acreage actually planted to the commodity for harvest in 1989.

In addition, the Secretary is required to make appropriate adjustments in applying the limitations described above to take into account crop rotation practices of the producers.

Section 102, in subsection (c), will establish two limitations on disaster payments for nonparticipants in the programs for target price crops, as follows:

(1) The amount of payments made available to producers on a farm for a crop of a commodity will be reduced by a factor equivalent to the acreage limitation program percentage established for the 1988 under the production adjustment program for the commodity involved.

(2) Payments could not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107 of the bill.

Section 103--Peanuts, sugar, and tobacco

Section 103, in subsection (a), will provide disaster payments to producers of the 1989 crops of peanuts, sugar beets, sugarcane, and tobacco. If the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under section 103(b), the Secretary must make a disaster payment available to such producers.

The disaster payment will be made to the producers at a rate equal to--

(1) 65 percent of the applicable payment level, as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop (or in the case of a crop of burley tobacco or flue-cured tobacco, for any deficiency in production greater than 35 percent, but not greater than 75 percent, of the farm's effective marketing quota for 1989); and

(2) 90 percent of the applicable payment level, as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop (or, in the case of burley tobacco or flue-cured tobacco, for any deficiency in production greater than 75 percent of the farm's effective marketing quota for 1989).

The applicable payment level for a commodity will be as follows:

(1) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as appropriate;

(2) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 104(a)(2); and

(3) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1989 crops of sugar beets and sugarcane, and that, insofar as is practicable, will reflect no less return to the producer than under the 1989 price support levels.

Section 103, in subsection (b), will require the Secretary

to provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting to the 1989 crop of the commodity for harvest because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary. This acreage may not exceed the greater of--

(1) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted for harvest in 1989; or

(2) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1985, 1986, and 1987 minus acreage actually planted to the commodity for harvest in 1989.

In addition, the Secretary must make appropriate adjustments in applying the limitations described above to take into account crop rotation practices of the producers and any change in quotas for the 1989 crops of tobacco.

Section 103, in subsection (c), will provide that disaster payments for a crop of a commodity may not be made available to the producers on a farm unless the producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107 of the bill.

Section 103, in subsection (d), will provide special rules to be applied in making disaster payments available to producers of peanuts. It will provide that, notwithstanding any other provision of law--

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under section 103, will be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under section 103 will be taken into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate will be established accordingly; and

(3) the amount of undermarketings of quota peanuts from a farm for the 1989 crop that may otherwise be claimed under the peanut production adjustment program for purposes of future quota increases will be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under section 103.

Section 103, in subsection (e), will provide special rules to be applied in making disaster payments available to producers of tobacco. It will provide that, notwithstanding any other provision of law--

(1) the amount of undermarketings of quota tobacco from a

farm for the 1989 crop that may otherwise be claimed under the production adjustment program for a type of tobacco for purposes of future quota increases will be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under section 103; and

(2) disaster payments made to producers under section 103 may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under the "no net cost" provisions of law relating to the tobacco program.

Section 103, in subsection (f), will provide that a producer of the 1989 crop of sugarcane or sugar beets that is unable to process the commodity into sugar due to the inability of local processing plants to process sugar as a result of damaging weather or related condition in 1989 will be eligible for disaster payments for any loss in sugar production attributable to such inability. Disaster payments made available under section 103(f) for such loss of production will be reduced by an amount equal to any proceeds received by the producer from the disposition of that portion of the crop on which disaster payments are made.

Section 104--Soybeans and nonprogram crops

Section 104(a), in paragraph (1), will require the Secretary of Agriculture to make a disaster payment to producers of the 1989 crops of soybeans and nonprogram crop, if the Secretary determines that, because of damaging weather or related condition in 1988 or 1989, the total quantity of the 1989 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under section 104(b) by 65 percent of--

(1) with respect to soybeans, the State, area, or county yield, adjusted for adverse weather conditions during the 1985, 1986, and 1987 crop years, as determined by the Secretary for such crop; or

(2) with respect to nonprogram crops, the yield established by the Commodity Credit Corporation under section 104(d)(2) for such crop.

The disaster payment will be made to the producers at a rate equal to--

(1) 65 percent of the applicable payment level, as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(2) 90 percent of the applicable payment level, as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

Section 104(a), in paragraph (2), will define the applicable payment level for a commodity to equal the simple average price

received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

Section 104(a), in paragraph (3), will require the Secretary to make disaster payments on a crop by crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

In addition, for purposes of determining the payment levels on a crop by crop basis, the Secretary must consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity for which there is a significant difference in the economic value in the market.

Section 104(a), in paragraph (4), for purposes of determining the total quantity of the 1989 nonprogram crop of the commodity that the producers on a farm are able to harvest, will require the Secretary to exclude--

(1) commodities that cannot be sold in normal commercial channels of trade, and

(2) dockage, including husks and shells, if such dockage is excluded in determining yields.

Section 104, in subsection (b), will require the Secretary to provide prevented planting credit with respect to acreage that producers on a farm were prevented from planting to the 1989 crop of the commodity for harvest because of damaging weather or related condition in 1988 or 1989, as determined by the Secretary. This acreage may not exceed the greater of--

(1) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted for harvest in 1989; or

(2) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1985, 1986, and 1987 minus acreage actually planted to the commodity for harvest in 1989.

The Secretary must make appropriate adjustments in applying the limitations described above to take into account crop rotation practices of the producers.

Section 104, in subsection (c), will provide that disaster payments for a crop of a commodity could not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 107 of the bill.

Section 104(d), in paragraph (1), will define the term "nonprogram crop" to mean all crops (including sweet potatoes)

for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1989, and other commercial crops (including sweet potatoes) for which such insurance was not available for crop year 1989, except that such term will not include a crop covered under section 101, 102, or 103, or soybeans.

Section 104(d), in paragraph (2), will direct the Commodity Credit Corporation to establish disaster program farm yields for nonprogram crops by averaging the yields for the 1985, 1986, and 1987 crop years. The yield for a farm for a crop year must be based on proven yields, if the producers on the farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for that crop year. In addition, for any crop year for which such data do not exist, the Commodity Credit Corporation must establish a yield for the farm by using a county average yield for the commodity.

Section 104(d), in paragraph (3), will state that it will be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of 1989 crop losses resulting from damaging weather or related condition in 1988 or 1989 in order for such producers to obtain disaster payments under section 104.

Section 105--Crop quality reduction disaster payments

Section 105, in subsection (a), will authorize the Secretary of Agriculture to make additional disaster payments to producers of 1989 crops covered under the provisions of sections 101 through 103, and producers of soybeans, that suffer losses resulting from the reduced quality of such crops caused by damaging weather or related conditions in 1988 or 1989, as determined by the Secretary, to ensure that all producers of such crops are treated equitably.

Section 105, in subsection (b), will provide that producers on a farm of a crop covered under the provisions of sections 101 through 103, and producers of soybeans, will be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 35 percent and not more than 75 percent for such crop (as determined under section 101, 102, 103, or 104, as appropriate), if the Secretary determines to make crop quality disaster payments available to producers.

Section 105, in subsection (c), will direct the Secretary to establish the reduced quality disaster payment rate, but restrict the rate from exceeding 10 percent, as determined by the Secretary, of--

(1) the established price for the crop, for wheat, feed grains, upland cotton, extra long staple cotton, and rice covered under section 101;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for wheat, feed grains, upland cotton, extra long

staple cotton, and rice covered under section 102;
(3) the payment level under section 103(a)(2), for peanuts, sugar beets, sugarcane, and tobacco; and
(4) the payment level under section 104(a)(2), for soybeans and nonprogram crops.

Section 105, in subsection (d), will provide that the amount of payment to a producer under section 105 will be determined by multiplying the payment rate established under section 105(c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1988 or 1989, as determined by the Secretary.

Section 106--Effect of federal crop insurance payments

Section 106 will require the Secretary of Agriculture, in the case of producers on a farm who obtained crop insurance for the 1989 crop of a commodity under the Federal Crop Insurance Act, to reduce the amount of payments made available under title I for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with title I for such crop exceeds the amount determined by multiplying--

(1) 100 percent of the yield used for the calculation of disaster payments made under title I for such crop, by
(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary, by
(3)(A) in the case of producers who participated in a production adjustment program for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1989 crop of the commodity;
(B) in the case of producers who did not participate in a production adjustment program for the 1989 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1989 crop of the commodity;
(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 103(a)(2); and
(D) in the case of producers of soybeans or a nonprogram crop, the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

Section 107--Crop insurance coverage for the 1990 crops

Section 107, in subsection (a), will require producers on a farm, to be eligible to receive a disaster payment under title I or forgiveness of the repayment of advance deficiency payments under section 101(b), to agree to obtain multiperil crop insurance under the Federal Crop Insurance Act for the 1990 crop of the commodity for which such payments or forgiveness are sought, subject to the limitations under section 107(b).

Section 107, in subsection (b), will provide that producers on a farm will not be required to agree to obtain crop insurance under section 107(a) for a commodity--

(1) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(2) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1989 crop in the county in which the producers are located;

(3) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment or forgiveness sought; or

(4) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

Section 107, in subsection (c), will require the Secretary of Agriculture to--

(1) ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 101 through 105 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans are made available) that producers who apply for assistance obtain multiperil crop insurance as required under section 107; and

(2) provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into as a result of the requirements of section 107(a) sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

In addition, each producer who is subject to the requirements of section 107 may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

Section 107, in subsection (d), will require each producer subject to the requirements of section 107 to make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay, and (notwithstanding any other provision of law) to become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section, at any time (prior to the end of the 1990 crop year for the commodity involved) that the crop insurance coverage required of the producer under section 107 is cancelled by the producer.

Section 108--Crops harvested for forage uses

Section 108 will require the Secretary of Agriculture to announce the terms and conditions by which producers on a farm may establish 1989 yield with respect to crops that will be harvested for silage and other forage uses, not later than 15 days after the date of the enactment of the bill.

Section 109--Payment limitations

Section 109, in subsection (a), will limit to no more than $100,00, the total amount of payments that a person will be entitled to receive under one or more of the programs established under title I. In addition, this limitation is subject to further limitations described in section 109(b) and 109(c).

Section 109, in subsection (b), will prohibit any person from receiving disaster payments under title I to the extent that such person receives a livestock emergency benefit for lost feed production in 1989 under section 606 of the Agricultural Act of 1949.

Section 109, in subsection (c), will prohibit any person from receiving any payment under title I or benefit under title VI of the Agricultural Act of 1949 for livestock emergency losses suffered in 1989 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed $100,000. If a producer is subject to the preceding sentence, the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949) whether to receive the $100,000 in such payments, or such livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

Section 109, in subsection (d), will require the Secretary of Agriculture to issue regulations--

(1) defining the term "person" for the purposes of section

109, which must conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 and the Disaster Assistance Act of 1988; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under section 109.

Section 110--De minimis yields

Section 110 will authorize the Secretary of Agriculture to determine a de minimis yield for each crop eligible for reduced yield disaster payments under title I. The de minimis yield must be set at a level that will minimize any incentive provided by the prospect of disaster payments to abandon crops that have a value that exceeds the cost of harvesting. In no case may the de minimis yield be less than the amount of production that, when valued at current market prices, equals the average cost of harvesting the crop, as determined by the Secretary. Any producer whose actual yield for a crop is equal to or less than the de minimis yield for such crop will be considered as having an actual yield of zero for the purpose of calculating any reduced yield disaster payments for such crop under title I.

Section 111--Definition

Section 111 will define the term "damaging weather" to mean drought, hail, excessive moisture, or freeze.

TITLE II--FOREST CROPS AND CONSERVATION MEASURES

Section 221--Eligibility

Section 221 will direct the Secretary of Agriculture to provide assistance, as specified in section 222, to eligible tree farmers that planted tree seedlings in 1988 or 1989 for commercial purposes but lost such seedlings as a result of the drought or related condition in 1989, as determined by the Secretary.

However, an eligible tree farmer will qualify for assistance under section 221(a) only if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

Section 222--Assistance

Section 222 will provide that the assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 221 must consist of either--

(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to drought or related conditions in 1989 in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient tree

seedlings to reestablish the stand.

Section 223--Limitation on assistance

Section 223 will limit the total amount of payments that a person will be entitled to receive under title II to not more than $25,000, or an equivalent value in tree seedlings.

In addition, the Secretary of Agriculture must issue regulations--

(1) defining the term "person" for the purposes of title II, which must conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under section 223.

Section 224--Definition

Section 224 will define the term "tree farmer" to mean a person that produces annual crops from trees for commercial purposes or that grows trees for harvest for commercial purposes, and owns 1,000 acres or less of such trees.

Section 225--Duplicative payments

Section 225 will require the Secretary of Agriculture to establish guidelines to ensure that no person receives duplicative payments under title II and the forestry incentives program, agricultural conservation program, or other existing Federal program.

Section 226--New conservation measures

Section 226, in subsection (a), will prohibit the Secretary of Agriculture, in the case of an owner or operator of land who has entered into a conservation reserve program contract under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) and harvests hay during the 1989 crop year on acreage subject to such contract as authorized by the Secretary of Agriculture, from reducing the amount of rental payments made to such owner or operator as the result of such harvesting to the extent that the owner or operator--

(1) carries out additional conservation practices, approved by the Soil Conservation Service in consultation with appropriate Federal and State agencies, to enhance soil, water, and wildlife conservation on or in the vicinity of lands subject to such contract; and

(2) pays the costs of carrying out such practices.

The amount of the reduction prohibited will equal one-half of the amount paid by the owner or operator to cover the costs of carrying out the conservation practices.

Section 226, in subsection (b), will define the term "conservation practices" to include--

(1) establishment of permanent shelterbelts and windbreaks;
(2) restoration of wetlands;
(3) establishment of wildlife food plots; or
(4) planting of trees.

TITLE III--ADMINISTRATIVE PROVISIONS

Section 331--Ineligibility

Section 331, in subsection (a), will restrict a person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, from being eligible to receive any disaster payment or other benefits under the bill.

Section 331, in subsection (b), will define the term "qualifying gross revenues" to mean--

(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

Section 332--Timing and manner of assistance

Section 332, in subsection (a), will require the Secretary of Agriculture to make full disaster assistance available under the bill as soon as practicable after the date of the enactment of the bill. However, notwithstanding any other provision of law or of the bill, no payment or benefit provided under the bill will be payable or due until such time as a completed application therefor has been approved.

In addition, a person eligible to receive payments under title I must make application for such payments not later than March 31, 1990, or such later date that the Secretary, by regulation, may prescribe.

Section 332, in subsection (b), will authorize the Secretary to make payments available under title I in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

Section 333--Commodity credit corporation

Section 333 will direct the Secretary of Agriculture to use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out the bill.

In addition, the authority provided by the bill is in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

Section 334--Regulations

Section 334 will require the Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, to issue regulations to implement the provisions of the bill as soon as practicable, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

MAY 25 1989

Honorable Dan Glickman
Chairman, Subcommittee on Wheat,
Soybeans, and Feed Grains
House of Representatives
Washington, D.C. 20515

Dear Dan:

Thank you for your letter concerning your bill to provide disaster payments and additional crop insurance coverage for producers affected by this year's drought. As I understand it, the bill would provide for disaster payments on 1989-crop wheat, feed grains, soybeans and certain nonprogram crops. It also would reopen the 1989 enrollment for Federal Crop Insurance.

I believe that enactment of drought relief legislation would be premature at this time. Further, I could not recommend to the President that he sign a disaster assistance bill unless it is:

- Budget-neutral and would not lead to a sequestration under the Gramm-Rudman-Hollings provision;

- Applicable only to 1989 crops affected by drought;

- Accompanied by an agreement between the Congress and the Administration that Federal Crop Insurance will be the sole vehicle for crop disaster assistance after 1989. Future crop insurance participation should be required as a condition of eligibility for producers receiving disaster payments for 1989 crops. In turn, the Federal Crop Insurance program must be reformed so that in the future it will provide disaster protection affordable both to farmers and to taxpayers.

I realize that recent rains will not be of much help to winter wheat producers in Kansas and elsewhere. But they will help rangelands and producers of spring-planted crops. The Midwest has had widespread rainfall over the past few days, and forecasts for the immediate future are encouraging. Therefore, I do not believe it would be appropriate to put in place a program that, hopefully, will be unnecessary. Each time the Congress does so, it deals another blow to crop insurance.

The latter is also a concern with respect to legislation that would help winter wheat producers. Crop insurance was available this year throughout the winter wheat belt at rates that bear a considerable taxpayer subsidy. Should the taxpayer now bear still another burden by providing relief to those who chose not to purchase insurance? If ad hoc drought or other disaster relief programs are legislated each year we will never be able to develop viable insurance programs. Participation will decline, and the taxpayer will have to bear that additional cost as well.

That is also why we should not reopen the 1989-crop insurance program. Doing so could add millions of dollars in FCIC losses, and it would essentially convert crop insurance into a disaster payment program. If one can buy insurance retroactively, it is a misnomer to call it "insurance".

Beyond the reduced incentive to participate in the Federal Crop Insurance program and higher indemnity exposure, the likely cost of the bill's disaster payment provisions is of concern. Most of the outlays for disaster payments under the bill would occur in FY 1990. Meeting the Gramm-Rudman-Hollings deficit target will be difficult under any circumstances, and any new commitments must be evaluated against competing national priorities.

The Department will re-estimate Commodity Credit Corporation (CCC) outlays for price support and related operations for the Mid-Session Review in June or July. Those estimates should capture any changes in program costs for winter wheat. However, we could have offsetting increases in other commodity programs; that is impossible to determine at this time. For the 1989 crop year as a whole, there may be no net reduction in CCC outlays at all. The range of $250 to $350 million mentioned in your letter is our preliminary estimate for winter wheat disaster payments only. We do not yet have updated projections of total 1989 wheat program costs which would enable us to gauge the changes in outlay estimates stemming from the reduced winter wheat crop, nor do we have estimates for other crops.

My judgment, Dan, is that existing legal authority is adequate to help livestock producers in drought-stressed areas. We'll continue to do what we can to facilitate feed supplies and thereby minimize herd liquidations. That situation seems now to be improving. To me it is the most critical element of this year's drought because cow herds are not easily replaced and crop insurance was inapplicable. The case for taxpayer relief for grain farmers, is not persuasive because of the availability of insurance.

Sincerely,

Clayton Yeutter
Secretary

Amendments Numbered 1 and 2 offered by Mr. Marlenee

Conforming Amendments to *de minimus* Yield Provisions

The 1988 Act provided that, in order to promote good farm management and to ensure that all possible grain supplies were placed into the market channels, if a producer had only enough of a crop left in his field to cover the costs of harvesting then the Secretary should consider that crop a total loss for disaster payment purposes. This was intended to ensure that the producer did not destroy such minimal yield, and to help provide some small additional supplies into a tight market.

Secretary Lyng did implement the provision, but only after considerable delay. Meanwhile, Federal Crop Insurance was pursuing an opposing policy. They would "zero-out" a crop if there were only a very small amount left standing due to disaster (i.e., 2 bushels per acre for wheat, but only if the producer would agree to destroy that remaining crop!

The effect of these two conforming amendments will (1) ensure that there is minimal delay in letting producers know of the de minimus yield provisions, and (2) conform the practices of FCIC with the expressed intent of Congress by prohibiting FCIC from requiring that de minimus yields be destroyed as a precondition for full crop insurance coverage.

Amendment No. 1 (Marlenee)

The first sentence of section 110 of the bill is hereby amended by striking out the word "may" and substituting in lieu thereof the word "shall".

Amendment No. 2 (Marlenee)

Section 110 of the bill is amended by adding at the end thereof the following new sentence:

"In instances where the actual production of a particular crop on a farm is equal to or less than the de minimus yield for that crop as determined by the Secretary in accordance with this section, the Federal Crop Insurance Corporation (including its agents, employees, or the agents or employees of re-insured companies) shall not require the destruction of any remaining portion of that crop as a condition for making a full crop loss indemnity payment under the terms of a valid contract of insurance on such crop.".

Amendment Number 3 offered by Mr. Marlenee

Improvement of "Adverse Weather" Definition

The 1988 Act required that a producer's loss be occasioned by "drought, hail, excessive moisture, or related condition." In the new extension, it has been agreed that the term "adverse weather" would be used instead, and that a definition of that term would include all of the items in the 1988 Act, plus the word "freeze."

The Conference Report in attempting to clarify the term "or related condition" states:

> *"It is the intent of the conferees that the phrase 'related condition' should include insect and other damage that is related to the disaster."*

Therefore, this amendment simply embodies in the new bill those elements which have been generally -- but not always -- acknowledged by USDA as "related conditions" to the particular form of natural disaster.

Amendment Number 3 (Marlenee)

At the end of section 111 of the bill, strike the period and insert the following:

", a combination thereof, or related conditions (including insect infestations, plant diseases, or other deterioration of the subject crop either before or after harvest which is accelerated or exacerbated naturally as a result of such adverse weather occurrence.".

#3
by Mr. Huckaby

Strike Sec. 111 and insert the following in lieu thereof:

SEC 111. DEFINITION.

The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, or excessive wind.

#1
by Mr. Huckaby

After Section 111, add the following:

Section 112. PRODUCER ELIGIBILITY.

A producer on a farm who produces any crop of a commodity for which disaster payments are made available under this subtitle shall qualify for a disaster payment if the total quantity of the commodity that the producer is able to harvest on that farm is reduced as a result of damaging weather in an amount that meets the criteria of the applicable section of this subtitle, even though the producers on the farm , collectively, may not meet such criteria.

E (KIKA) DE LA GARZA, TEXAS
CHAIRMAN

U.S. House of Representatives
Committee on Agriculture
Room 1301, Longworth House Office Building
Washington, DC 20515

October 21, 1988

EDWARD R. MADIGAN, ILLINOIS
RANKING MINORITY MEMBER

The Honorable Richard Lyng
Secretary of Agriculture
U.S. Department of Agriculture
Washington, DC 20250

Dear Mr. Secretary,

It was our intent, in approving the Disaster Assistance Act of 1988 (PL 100-387), to provide assistance to every individual farmer who suffered crop losses greater than 35%. We believe that the Department of Agriculture, in implementing the law, has unfairly discriminated against some farmers who clearly have suffered devastating losses yet are being made ineligible for benefits under the disaster assistance program.

We refer to those producers who rent land on a farm that also has other farmers, yet the farm itself has only one farm number. Consider, for example, a farm that is rented by two separate, unconnected farmers. One irrigates his crop and the other does not. The farmer with irrigation produces normal yields while the farmer with non-irrigated crops suffers devastating losses. Because these two farmers work land with the same farm number, their yields are averaged together. In many cases, this results in the average yield that makes the farmer without irrigation ineligible for any disaster assistance, notwithstanding the fact that he in no way benefits from his neighbor's success.

We believe that this situation is totally inequitable and unfairly penalizes hundreds of farmers throughout all areas of the Nation. No farmer who has suffered serious losses on his own crops should be denied critical assistance just because he rents land that has the same farm number as that farmed by another producer.

We appreciate the efforts that your staff has made to explain the technical problems involved in administering the program in a manner that would make these farmers eligible for assistance; however, we reiterate that in developing this legislation it was our intent to make all legitimate farmers eligible for disaster benefits if they suffered major losses. We would add that there is significant support for this position among our colleagues.

We therefore respectfully request that you reconsider this eligibility rule and take prompt action to correct this inequity. The already strained financial stability of many of our Nation's farmers may depend upon your decision.

Thank you for your consideration of this request.

Sincerely,

R. de la Garza

Kika de la Garza
Chairman

Jerry Huckaby

Jerry Huckaby

Amendment to H.R. 2467

Offered by Mr. Grandy

Page 28, after line 13, insert the following new section and redesignate subsequent section(s):

"Sec. 334. LIMIT ON OUTLAYS

"Notwithstanding any other provision of this Act, outlays by the Commodity Credit Corporation during the fiscal years ending September 30, 1989 and September 30, 1990 to meet obligations incurred to carry out the purposes of this Act shall not exceed in either fiscal year the difference between the Office of Management and Budget estimates of Commodity Credit Corporation spending made in January for fiscal years 1989 and 1990 for such purposes and the Office of Management and Budget estimates made in the August 15th sequestration report for fiscal years 1989 and 1990, and must be offset by reductions in obligations that might otherwise have been incurred for the price support, established price payment, or related programs for the 1989 farm program crops and the 1989 soybean crop. The Secretary is authorized to make pro rata reductions in disaster payments to eligible disaster payment recipients to limit the outlays as provided in this section."

LIMITATION ON BUDGETARY OUTLAYS

1. We have just passed a Budget Resolution that is based upon assumptions that there will be approximately $600 million in real cuts in the USDA Budget.

2. While a final figure has not yet been determined, estimates on the cost of the Disaster Assistance Act of 1988 are in the neighborhood of 3.9 billion dollars.

3. While current estimates reveal that reductions in wheat program spending may be large enough to pay for assistance to all other spring planted crops, it is still much too early to determine the crop outlook for other program commodities.

   Certain spring-planted program crops in certain regions could do exceedingly well, the value of the dollar could continue to rise reducing exports, livestock feeding could decrease, or other events could occur which would increase CCC outlays beyond current budget assumption levels. Such increases would have to be netted against the reductions in wheat spending, resulting in a smaller CCC cost-savings amount against which to offset disaster assistance.

   Therefore, it would be fiscally irresponsible to pass legislation here today which could not stand on its own budgetarily.

4. It is for these reasons that the Grandy amendment would limit outlays for disaster assistance payments in Fiscal Years 1989, 1990 and 1991 to not greater than those costs which would have been incurred under the farm price support and other commodity programs but for the adverse weather effects on the crops.

5. The effect of this amendment would be to hold the costs of this Disaster Assistance Extension Act within prescribed bounds thereby foregoing violation of the Concurrent Resolution on the Budget and limiting the threat of sequestration and veto.

(1)

AMENDMENT TO H.R. 3167
OFFERED BY MR. ROBERTS

Sec. 107 (page 18, line 20) is amended-

1. By substituting "(c)" for "(b)" after the word "substitution" (page 18, line 22).

2. By adding the following new subsection (b), and redesignating subsequent subsections (page 19, line 4):
"(b) Subject to the limitations under subsection (c), producers on a farm, to be eligible to receive a disaster payment under this title or forgiveness of the repayment of advance deficiency payments under section 101(b) for 1989 crops planted in 1988, must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act for the 1990 crop of the commodity for which such payments or forgiveness are sought, unless the producers' deficiency in production, with respect to the crop for which a disaster payment under this subtitle otherwise may be made, exceeds 65 percent."

3. By adding "and (b)" after "(a)" on page 19, line 8.

Amendment to the bill titled "1988 Disaster Assistance Extension Act" (Committee Print)
ffered by Mr. Grant.

At the end of the bill, add the following new section:

"SEC.____. It is the sense of the Congress that the Commission for the Improvement of the Federal Crop Insurance Program established by the Federal Crop Insurance Commission Act of 1988 (P.L. 100-546) should include in its final report, which is due by July 1, 1989, or in an addendum thereto prior to December 31, 1989, recommendations for and a study on the feasibility of a program of insurance which could be made available through the Federal Crop Insurance Program for domestic, commercial, small business sized producers and harvesters (including those who harvest native or wild species as well as those engaged in aquaculture production) of finfish, shrimp, crawfish, mollusks, or other seafood varieties which may be adversely affected by abnormal weather patterns (whether or not such weather patterns occur in close proximity to the location of production or harvest, and including but not limited to reduced fresh water supplies due to drought, or runoff contents and sedimentation from excessive moisture) which result in unfavorable water conditions, disease, or other related conditions which significantly diminish levels of harvest or marketability of such seafood species.".

Espy

DROUGHT ALTERNATIVE CROP PLANTING OPTION

Many producers in the Great Plains region are expected to lose much of their 1989 wheat and other Fall-seeded crops. If the drought assistance provided in 1988 is extended to these producers, some of these losses will be offset. However, last year's drought package does not take into account the fact that continuing dry conditions in many areas will disrupt traditional Fall planting patterns, requiring greater discretion in the selection and planting of crops to be harvested in 1990.

The 1985 Food Security Act provided discretion to plant up to 20 percent of permitted acreage to non-program crops (excluding peanuts, soybeans and extra long staple cotton) for harvest in 1989, without loss of base. This option is not available for crops that will be harvested in 1990.

The proposed provision would extend this option to allow producers to plant up to 20 percent of their permitted acreage to specific non-program crops for harvest in 1990, without loss of base. Crop alternatives include canola, rapeseed, sunflower, safflower, flaxseed, kenaf, crambe, guayule, milkweed, and meadowfoam. As in 1989, producers would be required to plant at least 50 percent of the permitted acreage to the program crop, and would not receive payments on the diverted acreage.

This planting option would provide a modest degree of flexibility in the selection and planting of 1990 crops, helping producers to offset the effects of the drought on planting plans and increasing the opportunity for farm-derived income. To the extent program acreage is diverted to non-program crop production, there would be a reduction in farm program outlays.

PLANTING OF ALTERNATE CROPS ON PERMITTED ACREAGE

Section 504(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1464(b)(2)) is amended--

(1) by striking out "and" at the end of clause (D);

(2) by redesignating clause (E) as clause (F); and

(3) by inserting after clause (D) the following new clause:

"(E) notwithstanding the provisions of clause (C), in the case of the 1990 crop year, acreage in an amount equal to not to exceed 20 percent of the permitted acreage for a program crop, if--

"(i) the acreage considered to be planted is planted to canola, rapeseed, sunflower, safflower, flaxseed, kenaf, crambe, guayule, milkweed, or meadowfoam.

"(ii) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

"(iii) payments are not received by producers under section 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; and".

AMENDMENT OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Section 104 is amended by adding at the end thereof a new subsection as follows:

(e) Honey -- In the case of a crop of honey, the term "producers on a farm" and the term "acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b)" as used in subsection (a) of this section and in section 204(a) of the Disaster Assistance Act of 1988 shall be deemed to refer to "a producer of honey" and "colonies of bees maintained by the producer", respectively.

Amendment to H.R. _____
Offered by Mr. Schuette

Sec. 105 (page 15, line 21) is amended as follows:
1. By deleting "103, and producers of soybeans," and adding "104" after the word "through".

Report language offered by Mr. Schuette:

The Committee recognizes that, under the terms of the 1988 Disaster Assistance Act, producers of dry edible beans and other nonprogram crops were often inadequately compensated for their losses due to the lack of a quality reduction provision. The change made to Section 105 is intended to alleviate this problem for future disaster programs. It is the intent of this Committee that the Secretary will use his discretionary authority to compensate producers for the reduced value of harvested crops due to quality damage caused by weather conditions.

Amendment to H.R. 2467

Offered by Mr. Madigan

Page 13, after line 19, insert the following new paragraph:

"(5) Notwithstanding any other provision of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) with respect to entitlement for disaster payments or date of application deadline therefore, a quantity of production from the acreage of a 1988 nonprogram crop that could have been harvested but that was damaged by a disaster such that it had virtually no commercial value shall be determined by the Secretary to constitute a deficiency in production of 100 percent for the quantity of production from such acreage for purposes of determining disaster assistance payments under the Disaster Assistance Act of 1988."

Amendment Number 8 offered by Mr. Marlenee

Clarification of "Feed-on-Hand" Determination

The 1988 Act in section 605(a)(2) specifically stated that (among other requirements) in order to qualify for livestock assistance the livestock producer must have suffered "...*a substantial loss in feed normally produced on the farm for such producer's livestock*...". And yet, USDA has insisted that a producer who lost **all** of his 1988 crop of livestock feed (feed barley) but who may have -- for instance -- a bin full of 1987-crop wheat (which was never "normally produced on the farm for such producer's livestock") cannot qualify for any feed assistance.

This is clearly inequitable and unfair. Likewise USDA has ruled that a producer who managed to save a field of grain which has always in the past been devoted to commercial off-farm sales, but who also lost all of his hay crop and the livestock grain field does not qualify for assistance.

Amendment Number 5 (Marlenee)

The Agricultural Act of 1949, title VI, section 605(a)(2) is amended by adding at the end thereof the following:

"Grain of any type, character, or quality, and any hay or other forage crop which is grown, growing, or in storage, and which is not produced in the ordinary course of business by the producer on the farm for the express purpose of feeding to livestock on the farm shall not be considered by the Secretary to be "feed on hand" for purposes of qualifying the producer for benefits under this title, nor shall any grain which such producer may have under Commodity Credit Corporation loan from a previous crop year be considered as "feed on hand" unless in the normal course of business such producer generally utilizes such grain upon loan redemption for feeding of livestock produced on the farm.".

Amendment to H.R. 2467

Offered by Mr. Roberts

Page 28, after line 20, insert:

"Title IV - Miscellaneous

"SECTION 441. LIVESTOCK WATER DEVELOPMENT PROJECTS.

"Section 607 of the Agricultural Act of 1949 (7 U.S.C. 1471e) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law, the Secretary shall make available not less than $25,000,000 to provide special assistance under paragraph (2) of subsection (b) for livestock emergencies in 1988 and 1989.

"SECTION 442. LIVESTOCK TRANSPORTATION ASSISTANCE.

"Section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, the Secretary shall make available not less than $25,000,000 to provide livestock transportation assistance under paragraph (6) of subsection (a) for livestock emergencies in 1989.

"SECTION 443. ANIMAL UNIT METHODOLOGY STUDY AND REPORT.

"The Secretary shall conduct a study and report to Congress on the methodology and justifications of the calculations used to determine the animal unit figure used in both the Emergency Feed Program and the Emergency Feed Assistance Program.".

HR 2467

1988 DISASTER ASSISTANCE EXTENSION ACT

REPORT LANGUAGE
BY
MR. SMITH OF OREGON

The Committee directs the Secretary of Agriculture to conduct a study outlining the methodology and justification of the calculations used in formulating the animal unit figure and feed on hand formula used in both the Emergency Feed Program and the Emergency Feed Assistance Program.

Regarding the animal unit specifically, but not withstanding any other pertinent information, this study will examine:

1. The year the unit was developed.
2. What criteria was used in developing the unit.
3. If the unit has ever been updated or changed.
4. The methodology used by USDA to calculate the difference in units between different livestock species.
5. The calculation used to differentiate between feed stuffs.

Regarding the feed on hand specifically, but not withstanding any pertinent information, this study will examine:

1. The rationale for considering crop insurance as feed on hand.
2. The reasoning for considering privately mortgaged grain as feed on hand when CCC mortgaged grain is not.
3. The purpose for treating feed which is unpalatable for hogs as feed on hand if an operator has very small numbers of cattle.
4. The requirement that a producer use the vast majority of his feed on hand before he can qualify, even though it is evident this year's feed crop has been damaged.

Amendment to H.R. _____

Offered by Mr. Coleman

Page 28, after line 20, insert the following new section in a new "Title IV, Miscellaneous":

"Section 441. Additional Assistance

"Section 607(b)(2)(B) of the Agricultural Act of 1949 (7 U.S.C. 1471e) is amended by inserting 'or ponds' after the word 'wells'."

Explanation of the Amendment: Adds cost-share eligibility to livestockmen to rehabilitate farm ponds. During the drought, many farm ponds in the Midwest are dry. This provides an excellent opportunity to clean out these ponds that have been filled in by siltation over the years. This will give back to the landowner the original capacity of the farm pond when rains recharge the pond.

AN AMENDMENT TO H.R. 2467, OFFERED BY MR. NAGLE

SEC. 226. NEW CONSERVATION MEASURES.

To subsection (a)(1) add the words "or grazes livestock" after the words "and harvests hay"; and add the words "or grazing" after the words "as the result of such harvesting".

The purpose of this amendment is to provide for new conservation provisions if the Secretary allows either haying or grazing on Conservation Reserve Program acres.

Amendment by Mr. Jontz.

After Sec. 105 add the following new section and re-number subsequent sections.

SEC. 106. aflatoxin CONTROL.

(a) In General.___ To encourage the removal of corn contaminated with unacceptable levels of aflatoxin from the domestic food chain and from foreign commerce, the Secretary of Agriculture shall make indemnity payments to producers of corn, who because of damaging weather or related conditions in 1988 or 1989 suffer losses to the 1989 crop because of aflatoxin contamination.

(b) Payment Rate.___ The Secretary shall establish a series of payment rates by determining the difference between the average market price and the maximum fair market value for permissible uses of aflatoxin-contaminated corn at various levels of contamination as determined by the Secretary.

(c) Producers with corn contaminated with aflatoxin in excess of 300 parts per billion will be eligible for indemnification at the average market price, if the corn is destroyed.

Amendment to H.R. 2467

Offered by Mr. Coleman

Page 28, after line 20, insert the following new section in "Title IV - Miscellaneous"

"SECTION ___. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.-- The Secretary of Agriculture shall establish an emergency grant program, to be administered by the Administrator of the Farmers Home Administration, to provide grants to eligible communities to assist such communities in minimizing losses and damages resulting from drought conditions in calendar years 1988 or 1989, or both.

"(b) ELIGIBLE COMMUNITIES. -- To be eligible to receive a grant under this section a community shall--

"(1) submit evidence to the Secretary that it suffered from severe water depletion related problems as a result of drought conditions in calendar years 1988 or 1989, or both;

"(2) certify to the Secretary that the drinking water system of such community is not, or will not be, in operating condition as a result of losses or damages resulting from drought conditions in calendar years 1988 or 1989, or both; and

"(3) submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall

require.

"(c) USE OF GRANT. -- A community that receives a grant under this section shall use the proceeds of such grant to minimize any losses and damages resulting from drought conditions in calendar years 1988 or 1989, or both.

"(d) AUTHORIZATION OF APPROPRIATIONS. -- There are authorized to be appropriated $75,000,000 to carry out this section.

AMENDMENT OFFERED BY MR. COLEMAN

Explanation of Amendment: This language establishes an emergency grant program to provide $75 million to communities that have been hard hit by the 1988-89 drought. Prolonged drought has exhausted or nearly exhausted water resources of many small towns and communities throughout the Midwest. Most of these towns have restricted water use or have totally run out of water. Communities are constructing pipelines to surrounding reservoirs in order to bring in water or are in the midst of trucking water. This amendment will help rural communities get through the drought.

Upper Locust Creek Watershed, Missouri and Iowa

Size and Location: 238,700 Acres. Putnam and Sullivan Counties in north-central Missouri, Wayne and Appanoose Counties in south-central Iowa.

Tributary to: Locust Creek

Sponsors: Soil and Water Conservation District of Putnam County, MO
Putnam County Commission, MO
Soil and Water Conservation District of Sullivan County, MO
Sullivan County Commission, MO
Wayne County Soil Conservation District, Iowa
Wayne County Board of Supervisors, Iowa
Appanoose County Board of Supervisors, Iowa
Locust Creek Watershed Subdistrict, MO

Purposes: Watershed Protection and Flood Prevention.

Total Watershed Land Use:	Percent
Cropland	28
Grassland	47
Forest Land	24
Other	1

Total watershed privately owned - 98%

Number of Farms: 634

Size of Farms: 370 acres, average

Principal Measures: Principal Structural Measures (Financial and Technical Assistance): 5 floodwater retarding dams and 347 dams for floodwater detention and grade stabilization.

"Principal Land Treatment Measures (P.L.-566 Technical Assistance):"

Cropland:
37 grade stabilization structures;
310 acres of grassed waterways or outlets;
85,500 feet of underground outlets;
1,440,500 feet of terraces;
1,810 acres of pasture and hayland planting and management (1,357 acres cool-season legume mix and 453 acres of warm-season grass mix);
50 acres of tree planting;
17,200 acres of conservation tillage;
8,200 acres of conservation cropping systems; and
17,200 acres of contour farming.

Grassland:
200 acres of critical area planting;
250 grade stabilization structures;
5,700 acres of pasture and hayland planting; and
11,900 acres of pasture and hayland management.

Forestland:
8,200 acres of woodland improvement including 1,000 acres of livestock exclusion.

Average Annual Benefits:

	Dollars	Percent
To agricultural acreage (land and crops)	1,609,501	94.2
To agricultural improvements	51,258	3.0
To nonagricultural improvements	47,841	2.8
Total	1,708,600	100.0

Project Costs:

	P.L. 566 Funds		Other Funds		Total
	Dollars	Pct.	Dollars 1/	Pct.	Dollars
Land Treatment Measures	875,100	18.5	3,852,900	81.5	4,728,000
Structural Measures					
Flood Prevention	14,889,900	91.6	1,369,400	8.4	16,259,300
Project Administration	400,400	85.0	70,900	15.0	471,300
Total	16,165,400		5,293,200		21,458,600

Average Annual Costs:

Project Installation	$1,151,000
OM&R	104,700
Total	$1,255,700

Area Benefited: 69,700 acres; Floodplain 26,900; Upland 42,800. In addition, 22,600 acres of common floodplain with Locust Creek (outside watershed) receive benefits.

Number of beneficiaries:	
Flood Prevention	164
Watershed Protection	470
Total	634

Carrying out the Project:

The estimated annual cost of operation and maintenance is $104,700

Benefit-Cost Ratio: 1.36:1.00

The sponsors do not intend to use an FHA loan.

1/ For land treatment measures this is primarily the cost of applying land treatment measures by landowners. For structural measures this is primarily the cost of landrights.

Howard Creek Watershed, West Virginia

Size and Location: Greenbrier County, West Virginia, approximately 60 miles east of Beckley. The watershed is 58,300 acres (91.1 square miles). Congressional District 2.

Tributary to: Greenbrier River

Sponsors: Greenbrier County Commission
City of White Sulphur Springs
Greenbrier Valley Soil Conservation District

Purposes: Watershed protection and flood prevention.

Total Watershed Land Use:	Percent
Croplands	0.4
Grasslands	6.9
Woodland	86.7
Miscellaneous	1.1
Urban	4.9

Total watershed privately owned - 90 percent.

Number of Farms: 200

Size of Farms: About 175 acres average.

Principal Measures:

1) Dam site #12 on Dry Creek. Dam is earthen type 86 feet high and contains 624,400 cubic yards of material. The dam provides a permanent 19-acre sediment pool, which will expand up to 100 acres during flood times.

2) Channel work through the city of White Sulphur Springs. The length of the channel is 2,910 feet with a depth of 8.5 feet and a bottom width which varies from 55 to 85 feet.

3) Provide technical assistance to prepare resource inventories, develop conservation plans, and apply conservation practices. The accelerated land treatment program will treat 90 acres of cropland, 600 acres of pastureland, 20 acres of urban land, 10 acres of forest land access roads, 5 acres of other land, 800 acres of wildlife management, and will convert 90 acres of hayland and pastureland to forest land.

Annualized Benefits:

	Dollars	Percent
To nonagricultural improvements		
Flood Damage Reduction	484,100	82
Incidental Recreation	10,900	2
Unemployed Labor	93,600	16
Total	588,600	100

Project Costs:

	P.L. 566 Funds		Other Funds		Total
	Dollars	Pct.	Dollars 1/	Pct.	Dollars
Land Treatment Measures	98,900	1.2	106,500	1.3	205,400
Structural Measures					
Flood Prevention	6,011,900	72.8	1,830,300	22.2	7,842,200
Project Administration	196,200	2.4	6,100	0.1	202,300
Total	6,307,000	76.4	1,942,900	23.6	8,249,900

Annualized Costs:

Project Installation -	$486,600
OM&R -	6,200
Total	$492,800

Annualized costs are average annual equivalents based upon a 106 year period of analysis at 8-7/8 percent interest.

Area Benefited: 1,615 acres.

Number of beneficiaries: 336 Homes
94 Businesses
9,500 Annual Fishermen Days

Carrying out the Project: SCS will provide engineering design, construction funds, and contract administration. The sponsors will acquire the necessary landrights and provide proper OM&R.

The estimated annual cost of operation and maintenance is $6,200.

Benefit-Cost Ratio: 1.2:1

The sponsors do not intend to use an FHA loan.

1/ For land treatment measures this is primarily the cost of applying land treatment measures by landowners. For structural measures this is primarily the cost of landrights.

Statement of Jim Jontz

May 25, 1989

Mr. Chairman, thark you for scheduling H.R. 2042 for consideration by this Committee, and for the support and cosponsorship of this legislation by you and our colleagues to address a very serious problem in our nation's farm programs.

H.R. 2042 addresses one of the biggest inequities in our nation's farm programs -- the established yield which USDA uses to determine program payments to farmers.

As you know, farmers payments are based upon a USDA established yield for their farm. These established yields are not reflective of actual producton because products have not been able to update the information used by USDA to set these yields for each farm. The last time producers were allowed to update their yields was in 1986 when they were allowed to prove their actual yields for the crop years of 1980 through 1985.

Denying producers the option to adjust their yields for the past three years has created a tremendous inequity between actual production and the USDA established yields. Farmers have had to become more efficient in their operations and current farm programs do not reflect this increase in efficiency.

Even more disadvantaged are the farmers who did not participate in our nation's farm programs until recently. Without a production history in the past, these farmers are forced to accept an even more arbitrary yield figure that is frequently even more distorted than the USDA established yield.

As this Committee, and Congress, prepares to write a new five-year farm bill next year to reauthorize the 1985 Food and Security Act it is important that all policy alternatives are considered, including paying producers on actual production. To gather the information necessary to estimate the costs of such an alternative requires this Committee's action now.

For these reasons, Mr. Madigan, several Members of this Committee and I introduced H.R. 2042 to address this inequity by:

1. requiring the Secretary to allow producers of wheat, feed grains, upland cotton, rice, and soybeans to provide actual yield data for the 1989 and 1990 crops to county ASCS committees.

2. requiring the Secretary to notify producers of the opportunity to submit such data.

3. requiring the Secretary to maintain such data for at least five crop years.

4. Require the Secretary to report to Congress, no later than January 31, 1990, the potential costs of basing farm program payments on actual yields in future farm programs.

Most importantly, this bill will provide the data for this Committee to address the concerns of our nation's farmers about program payments based upon unrealistic and outdated information.

STATEMENT OF E. THOMAS COLEMAN
ON THE
UPPER LOCUST CREEK WATERSHED PROJECT

Mr. Chairman, I appreciate your bringing this matter before the full Committee for consideration.

The Upper Locust Creek watershed is in my Congressional district, and it has been a long time getting to this approval stage.

Upper Locust Creek is a large project and will provide unique benefits to an area of the Midwest and Missouri that needs soil and water conservation projects such as this one. Upper Locust Creek will provide those conservation benefits, as well as provide new water resources to an area that often is without these resources. It also will provide recreational facilities to the citizens of north Missouri.

As I pointed out to my colleagues of the conservation subcommittee on April 5th of this year, this project was scheduled to be completed in 10 years. Because the Reagan Administration was concerned about its size, it has been stretched out to 20. The stretch out also calls for each of the

construction units to be reaffirmed as to its current feasibility before that unit may proceed. The average annual benefits of this project are $1.7 million compared to annual costs of $1.2 million.

It is a beneficial watershed under the terms of P.L. 566, and I urge the Committee to approve it this morning.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 1, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 10:00 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the proposed Forest Service conservation easement purchase from the State of New Hampshire

The following Members were present:

Mr. Volkmer	Mr. Morrison	Mr.
Mr. Olin	Mr. Smith	Mr.
Mr. Stallings	Mr. Schuette	Mr.
Mr. Johnson	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.

Staff Present:

Joe Muldoon, Majority Assistant Counsel
Alice Devine, Minority Associate Counsel
Tim DeCoster, Subcommittee Staff Director
Allison Biggs, Minroity Consultant
Glenda Temple, Clerk
Jim Lyons, Staff Assistant

Witnesses:

1. Hon. Bruce F. Vento, Member of Congress from Minnesota

2. Mr. Gordon H. Small, Director of Lands, Forest Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Jim Snow, Office of General Counsel, U.S. Department of Agriculture, Washington, D.C.

3. Mr. Will Abbott, Executive Director, New Hampshire Land Conservation Investment Program, Concord, New Hampshire

   Acc. by: Mr. Steven M. Houran, Senior Assistant Attorney General, State of New Hampshire, Concord, New Hampshire

4. Panel:

   Mr. Stephen D. Blackmer, Vice President for Policy, Society for the Protection of New Hampshire Forests, Concord, New Hampshire

   Mr. Edward L. Spencer, New Hampshire State Director, the Nature Conservancy, Concord, New Hampshire

   Mr. Michael J. Kellett, Northeast Regional Director, The Wilderness Society, Boston, Massachusetts

Statements Submitted for the Record:

1. Hon. Harold L. Volkmer, Member of Congress from Missouri

2. Hon. Sid Morrison, Member of Congress from Washington

Thursday, June 1, 1989
Subcommittee on Forests,
Family Farms, and Energy
Public Hearing
Forest Service conservation
easement purchase from State
of New Hampshire

Chairman Volkmer called the meeting to order for the purpose of reviewing the proposed acquisition by the Forest Service of a conservation easement on certain forest lands in the State of New Hampshire.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings, one recess was taken at 11:10 a.m. to enable Members to respond to a recorded vote on the House floor. At 11:50 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 6, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 11:25 a.m.-o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing testimony on the need to develop federal, state, and local programs to assist in the economic and human development of rural areas.

The following Members were present:

Mr. English	Mr. Coleman	Mr.
Mr. Tallon	Mr.	Mr.
Mr. Penny	Mr.	Mr.
Mr. Nagle	Mr.	Mr.
Mr. Harris	Mr.	Mr.
Mr. Espy	Mr.	Mr.
Ms. Long	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present

Joe Muldoon, Majority Assistant Counsel
Bill Cherry, Subcommittee Staff Director
Dave Ebersole, Minority Consultant
Joe Dugan, Assistant Press Secretary
James R. Lyons, Staff Assistant
Francie Monaghan, Staff Assistant

Witnesses:

1. The Honorable Mike Synar, Member of Congress from Oklahoma
2. The Honorable Timothy J. Penny, Member of Congress from Minnesota
3. The Honorable Dan Glickman, Member of Congress from Kansas
4. The Honorable Charles Hatcher, Member of Congress from Georgia
5. The Honorable Charles Stenholm, Member of Congress from Texas
6. The Honorable Byron Dorgan, Member of Congress from North Dakota
7. The Honorable Ike Skelton, Member of Congress from Missouri
8. The Honorable Wes Watkins, Member of Congress from Oklahoma
9. The Honorable Frederick S. Upton, Member of Congress from Michigan

Tuesday, June 6, 1989
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
Review of rural development

Chairman English called the Subcommittee to order for the purpose of hearing testimony on proposals to assist in the development of rural areas. Witnesses listed on page two of these minutes were heard for their prepared testimony and were then questioned by the Members of the Subcommittee.

During the proceedings, a recess was taken at 12:15 p.m., to enable Members to respond to the special roll call vote electing a new Speaker of the House of Representatives.

At 3:00 p.m., the meeting was adjourned, subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 6, 1989

(Sub) Committee Livestock, Dairy, and Poultry; and Department Operations, Research, and Foreign Agriculture

Joint Public Hearing

met at 11:25 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing H.R. 84, the Veal Calf Protection Act

The following Members were present:

	DORFA
Mr.	Brown, Chrm.
Mr.	Rose
Mr.	Stenholm
Mr.	Olin
Mr.	Volkmer
Mr.	Jontz
Mr.	de la Garza
Mr.	ex officio
Mr.	Roberts
Mr.	Grandy
Mr.	Walsh
Mr.	
Mr.	
Mr.	
Mr.	

Members Also Present:

Mr.	Bennett
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	

	LDP
Mr.	Stenholm, Chrm.
Mr.	Olin
Mr.	Campbell
Mr.	Johnson
Mr.	Harris
Mr.	Rose
Mr.	Volkmer
Mr.	Penny
Mr.	Nagle
Mr.	Long
Mr.	de la Garza
Mr.	ex officio
Mr.	Gunderson
Mr.	Lewis
Mr.	Smith
Mr.	Walsh
Mr.	Grant

Staff Present:
John E. Hogan, Minority Counsel
Alice Devine, Minority Associate Counsel
Dan Waggoner, Subcommittee Staff Director
Theresa Green, Staff Assistant
Carol Dubard, Minority Consultant
Glenda Temple, Clerk
Grace McGovern, Staff Assistant
Jim Davis, Press Secretary

Witnesses:

1. Honorable Charles E. Bennett, Member of Congress from Florida

2. Dr. R. D. Plowman, Administrator, Agricultural Research Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Dr. Lewis W. Smith, National Program Leader, Animal Nutrition, Agricultural Research Service, USDA
   Dr. Joan M. Arnoldi, Deputy Administrator, Animal Plant Health Inspection Service, USDA
   Dr. Marvin Norcross, Deputy Administrator, Science, Food Safety Inspection Service, USDA
   Dr. Richard Carnevale, Food Safety Inspection Service, USDA

3. Panel

   Dr. Stanley E. Curtis, Professor, Department of Animal Sciences, University of Illinois, Urbana, Illinois

   Dr. Ted Friend, Associate Professor, Department of Animal Science, Texas A&M University, College Station, Texas

   Dr. Claire Saville, Motcombe Farm, Ashwicke, England

   Dr. John J. McGlone, Associate Professor, Department of Animal Science, Texas Tech University, Lubbock, Texas

4. Panel

   Dr. Franklin M. Loew, Dean, School of Veterinary Medicine, Tufts University, North Grafton, Massachusetts

   Dr. Keith E. Sterner, President, American Society of Bovine Practitioners, on behalf of the American Veterinary Medical Association, Ionia, Michigan

   Dr. Jan C. Gawthrop, Rensselaer Veterinary Clinic, Rensselaer, Indiana

   Dr. Clyde K. Smith, Valley Laboratories, Inc., Sturgeon Bay, Wisconsin

   Dr. Richard G. Warner, Professor, Department of Animal Science, Cornell University, Ithaca, New York

5. Panel

   Dr. Michael W. Fox, Vice President, Bioethics and Farm Animals, The Humane Society of the United States, Washington, D.C.

   Mr. Dan Howell, Director, Americans for Safe Food Project, Center for Science in the Public Interest, Washington, D.C.

Tuesday, June 6, 1989
Subcommittee on Livestock,
Dairy, and Poultry
Subcommittee on Department
Operations, Research, and
Foreign Agriculture
Joint Public Hearing
Veal Calf Protection Act
H.R. 84

Witnesses Continued:

Mrs. Michalynn Wagner, President, Marque of Nebraska, Ltd., Grand Island, Nebraska

Mr. Jean-Louis Palladin, Jean-Louis at Watergate, Washington, D.C.

Mr. Bradley Miller, Executive Director, Humane Farming Association, San Francisco, California

6. Panel

Dr. Herbert W. Polzin, Director of Veal Operations, Milk Specialties, Inc., Dundee, Illinois

Mr. Bill Bassett, Bassett's Dairy Farm, Monticello, Florida, representing National Milk Producers Federation and Florida Dairy Farmer's Association

Mrs. Connie Greig, Chairman, Animal Care Subcommittee, National Cattlemen's Association, Estherville, Iowa

Mr. Len Landwehr, Wisconsin veal farmer, DePere, Wisconsin, representing the American Farm Bureau Federation

Mr. Howard F. Lyman, Legislative Analyst, National Farmers Union, Washington, D.C.

Mrs. Ardath DeWall of Shannon, Illinois, representing Associated Milk Producers Inc.

Mr. Jack Fleishman, President, Berliner and Marks, Inc., Brooklyn, New York, representing American Meat Institute

Mrs. Sandy Greiner, American Agriwoman, Keota, Iowa

7. Panel

Mr. Ron Desen, veal producer, Lynchfield, Minnesota

Tuesday, June 6, 1989
Subcommittee on Livestock,
Dairy, and Poultry
Subcommittee on Department
Operations, Research, and
Foreign Agriculture
Joint Public Hearing
Veal Calf Protection Act
H.R. 84

Witnesses Continued:

Mr. Russell E. Dodge, Jr., Whitewater Farm, New Sharon, Maine

Mr. Robert A. Brown, President, Food Animal Concerns Trust, Chicago, Illinois

8. Panel

Mrs. Jody Pratt, veal farmer, St. Croix Falls, Wisconsin

Mrs. Barbara Huffman, President-Elect, American Veal Association, Fremont, Wisconsin

Mrs. Jane Lindgren, President-Elect, American National Cattlewomen, Inc., Joliet, Montana

Mrs. Kay Leosky, Dairy Chairwoman, WIFE, Turin, New York

Mrs. Wanda Cooper, veal farmer, Rothbury, Michigan

Mrs. Jacquie Compston, Livestock Chairman, American Agriwomen, Wellington, Nevada

Mr. R. Gary Wright, veal farmer, Canton, Pennsylvania

Mrs. Sheri Spader, Animal Welfare chairperson, Missouri Cattlemen's and Cattlewomen Associations, Rosendale, Missouri

Statements Submitted for the Record:

1. Mr. Charles L. Frazier, National Farmers Organization, Washington, D.C.

2. Mr. Robert M. Frederick, Legislative Director, The National Grange, Washington, D.C.

3. Mr. Donald V. Seipt, Vice President, Holstein Association of America, Easton, Pennsylvania

Tuesday, June 6, 1989
Subcommittee on Livestock,
Dairy, and Poultry
Subcommittee on Department
Operations, Research, and
Foreign Agriculture
Joint Public Hearing
Veal Calf Protection Act
H.R. 84

Statements Submitted for the Record Continued:

4. Ms. Sara J. Amundson, Doris Day Animal League, Washington, D.C.

5. Hon. Ron Marlenee, Member of Congress from Montana

6. Hon. Jim Jontz, Member of Congress from Indiana

7. Ms. Julia Child, Julia Child Productions, Inc., Santa Barbara, California

8. Mr. Robert Groenevelt, Real Veal, Ixonia, Wisconsin

Chairman Stenholm of the Subcommittee on Livestock, Dairy, and Poultry called the joint hearing together for the purpose of reviewing H.R. 84, the Veal Calf Protection Act. Chairman Brown of the Subcommittee on Department Operations, Research, and Foreign Agriculture made opening comments. Messrs. Campbell and Olin also made opening comments.

The witnesses listed above made their presentations. Following receipt of their testimony, the witnesses were questioned by the Members of the Subcommittees.

During the proceedings Messrs. Rose and de la Garza assisted the two Subcommittee Chairmen with the chairing responsibilities. The hearing was recessed at 12:25 p.m. to enable Members to respond to recorded votes on the House floor. At 7:15 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington 20515

MINUTES

Date Wednesday, June 7, 1989

(Sub) Committee Forests, Family Farms, and Energy

Public Hearing and Business Meeting

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing H.R. 2144, the Urban and Community Forestry Act of 1989; and considering H.R. 1011, a bill to provide for the establishment of the National Commission on Natural Resources Disasters

The following Members were present:

Mr. Volkmer	Mr. Morrison	Mr.
Mr. Olin	Mr. Marlenee	Mr.
Mr. Jontz	Mr. Smith	Mr.
Mr. Johnson	Mr. Schuette	Mr.
Mr. Harris	Mr. Herger	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present:

Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Joe Muldoon, Majority Assistant Counsel
Tim DeCoster, Subcommittee Staff Director
Allison Biggs, Minority Consultant
Glenda Temple, Clerk
Jim Lyons, Staff Assistant

Witnesses:

1. Hon. Claudine Schneider, Member of Congress from Rhode Island

2. Mr. Allan J. West, Deputy Chief, State and Private Forestry, Forest Service, U.S. Department of Agriculture, Washington, D.C.

3. Panel

   Dr. J. James Kielbaso, Professor of Urban Forestry, Michigan State University, East Lansing, Michigan

   Dr. Hashem Akbari, Leader, Heat Island Project, Lawrence Berkeley Laboratory, Berkeley, California

   Dr. Alan R. Ek, Professor and Head, College of Natural Resources, University of Minnesota, St. Paul, Minnesota

4. Panel

   Mr. Allan S. Mickelson, Illinois State Forester and Chairman, Urban Forestry Committee, National Association of State Foresters, Washington, D.C.

   Mr. R. Neil Sampson, Executive Vice President, American Forestry Association, Washington, D.C.

   Ms. Madeline Fishel, Assistant Director of Federal Projects, Trust for Public Land, Washington, D.C.

5. Panel

   Hon. David I. Wynne, Mayor, City of Chesapeake, Chesapeake, Virginia, on behalf of the National League of Cities, Washington, D.C.

   Mr. Gregory Bowen, AICP, Deputy Director, Calvert County Planning and Zoning Department, Prince Frederick, Maryland, on behalf of the American Planning Association, Washington, D.C.

   Mr. Donald C. Willeke of Minneapolis, Minnesota, Legislative Chairman, National Urban Forest Council, Washington, D.C.

   Mr. John M. De Noyer, Councilman, Herndon, Virginia
   Acc. by: Mr. John Dudzinsky, Urban Forester, Herndon, Virginia

Statements Submitted for the Record:

1. Hon. Sid Morrison, Member of Congress from Washington

2. Hon. Jim Jontz, Member of Congress from Indiana

Wednesday, June 7, 1989
Subcommittee on Forests,
Family Farms, and Energy
Public Hearing and Business
Meeting
Urban and Community Forestry
Act - H.R. 2144
National Commission on Natural
Resources Disasters -
H.R. 1011

Chairman Volkmer called the meeting to order for the purpose of reviewing H.R. 2144, by Mr. Jontz, the Urban and Community Forestry Act of 1989, and considering H.R. 1011, by Mr. Herger, a bill to provide for the establishment of the National Commission on Natural Resources Disasters. Mr. Volkmer made opening comments on the bill to promote the planting and successful maintenance of trees in urban and community settings, through research, technical assistance, and competitive grants. Messrs. Morrison and Jontz also made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

B U S I N E S S M E E T I N G

Action Taken:

-- By voice vote Herger en bloc amendments to H.R. 1011 agreed to.

-- By voice vote H.R. 1011, as amended, ordered reported to the full Committee.

At 12:35 p.m. the Subcommittee resolved into a business meeting for the consideration of H.R. 1011, a bill to provide for the establishment of the National Commission on Natural Resources Disasters, to provide for increased planning and cooperation with local firefighting forces in the event of forest fires, and for other purposes. (See attached copy of bill, departmental reports, brief explanation and section-by-section analysis.)

Counsel was asked to explain the provisions of the legislation and discussion occurred.

Wednesday, June 7, 1989
Subcommittee on Forests,
Family Farms, and Energy
Public Hearing and Business
Meeting
Urban and Community Forestry
Act - H.R. 2144
National Commission on Natural
Resources Disasters -
H.R. 1011

Mr. Herger offered the attached en bloc amendments and distributed the attached report from the Department of Agriculture addressing the Administration's concerns about the possible budgetary impacts of the proposed Commission. Discussion occurred.

There were several questions (copies attached) and staff was directed to try to resolve them prior to full Committee consideration of the legislation.

Mr. Morrison moved that H.R. 1011, as amended, be ordered favorably reported to the full Committee. The motion was agreed to by a voice vote in the presence of a quorum (9 Members present and voting).

At 12:50 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

(H.R. 1011 is held in the committee files.)

BRIEF EXPLANATION

Title I of H. R. 1011 will--

(1) establish a temporary, 25-member "National Commission on Natural Resources Disasters" appointed by the Secretary of Agriculture to study the effects of wildfires on National Forest System lands and make recommendations concerning the steps necessary to ensure an effective and efficient recovery from the losses of natural resources resulting from wildfires;

(2) require the Commission to submit a report to the Secretary of Agriculture not later than December 1, 1990, based on its study; and

(3) provide funding for the Commission from contributions of money and services or (if the contributions are insufficient) through the transfer by the Secretary of Agriculture of up to $500,000 from the general fund of the Treasury, as provided in advance in appropriation Acts.

Title II of H.R. 1011 will require the Secretary of Agriculture to--

(1) submit an annual report to Congress on the rehabilitation needs of each national forest resulting from forest fire damage during the previous year;

(2) offer annual training programs to certify volunteer fire fighters using local educational facilities; and

(3) submit a report to Congress documenting local mobilization plans for emergency firefighting equipment in areas of the National Forest System which are highly prone to forest fires.

SECTION BY SECTION ANALYSIS

H.R. 1011

TITLE I--NATIONAL COMMISSION ON NATURAL RESOURCES DISASTERS

Section 101--Findings

Section 101 provides findings and a declaration of policy of Congress.

Section 102--Establishment of the Commission

Section 102, in subsection (a), will establish a commission to be known as the National Commission on Natural Resources Disasters to study (as provided in section 103) the effects of wildfires on National Forest System lands and make recommendations concerning the steps necessary to ensure an effective and efficient recovery from the losses of natural resources resulting from these wildfires.

Section 102, in subsection (b), provides that the Commission will be comprised of twenty-five members appointed by the Secretary of Agriculture. Not less than twenty of the members of the Commission must be appointed from nominations submitted to the Secretary by the following:

(1) the Chairman of the Committee on Agriculture of the House of Representatives after consultation with the committee;

(2) the ranking minority member of the Committee on

Agriculture of the House of Representatives after consultation with the committee;

(3) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate after consultation with the committee; and

(4) the ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate after consultation with the committee.

Section 102, in subsection (c), will require the Secretary of Agriculture to fill any vacancy on the Commission.

Section 102, in subsection (d), will require the Commission to elect a chairperson from among the members of the Commission.

Section 102, in subsection (e), will require the Commission to meet at the call of the chairperson or a majority of the members of the Commission.

Section 103--Duties of the Commission

Section 103, in subsection (a), will require the Commission to study the effects of wildfires on-

(1) the economic stability of the affected communities;

(2) the availability of sufficient timber supplies to meet future industry needs;

(3) fish and wildlife habitats in the affected areas;

(4) recreation in the affected areas;

(5) the watershed and water quality protection plans

in effect within National Forest System lands;

(6) ecosystems in the affected areas; and

(7) the land and resource management plans of the affected National Forest System lands.

Section 103, in subsection (b), will require the Commission, on the basis of its study, to make findings and develop recommendations for consideration by the Secretary of Agriculture with respect to the future management of National Forest System lands and community redevelopment activities and programs.

Section 103, in subsection (c), will require the Commission to submit to the Secretary of Agriculture, not later than December 1, 1990, a report containing the results of its study and recommendations based on the results.

Section 104--Powers of the Commission; Compensation; Staff

Section 104, in subsection (a), will require the heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office to provide the Commission with any information that is necessary to enable the Commission to carry out its duties and functions.

Section 104, in subsection (b), provides that members of the Commission are to serve without compensation for work on the Commission. However, members of the Commission will be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the

Government service under section 5703 of title 5, U.S.C., while away from their homes or regular places of business in the performance of duties of the Commission.

(Note: Section 5703 of title 5, U.S.C., provides that an employee serving intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis, or serving without pay or at $1 a year, may be allowed travel or transportation expenses, while away from his home or regular place of business and at the place of employment or service.)

Section 104, in subsection (c), authorizes the Commission, to the extent there are sufficient funds available in advance under section 208 and subject to any rules that the Commission may prescribe, to--

(1) appoint and fix the compensation of a director; and

(2) appoint and fix the compensation of any additional personnel that the Commission determines are necessary to assist the Commission to carry out its duties and function.

This subsection provides that the director and staff of the Commission may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code relating to the classification and General

Schedule pay rates.

Section 104, in subsection (d), will authorize the heads of executive agencies, the General Accounting Office, and the Office of Technology Assessment, on the request of the Commission, to furnish the Commission with personnel and support services as the head of the agency or office and the chairperson of the Commission agree are necessary to assist the Commission to carry out the duties and functions of the Commission. The Commission will not be required to pay or reimburse the agency or office for such personnel and support services.

Section 104, in subsection (e), will exempt the Commission from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

(Note: Section 7(d) of the Federal Advisory Committee Act provides that the Administrator of General Services, after study and consultation with the Director of the Office of Personnel Management, must establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner that gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. The regulations must provide that no member of any advisory committee or of the staff of any advisory committee will receive compensation at a rate in excess of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, U.S.C.;

that the members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, U.S.C., for persons employed intermittently in the Government service; and that the members who are blind or deaf or who otherwise qualify as handicapped individuals, and who do not otherwise qualify for assistance under section 3102 of title 5, U.S.C., by reason of being an employee of an agency, may be provided services pursuant to section 3102 of title 5 while in performance of their advisory committee duties. In addition, section 7(d) provides that nothing therein will prevent an individual who is a full-time employee of the United States, or an individual who immediately before his service with an advisory committee was an employee, from receiving compensation at the rate at which he otherwise would be compensated as a full-time employee of the United States.

Section 10(e) of the Federal Advisory Committee Act provides that there must be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any meeting. No advisory committee can conduct any meeting in the absence of that officer or employee.

Section 10(f) of the Federal Advisory Committee Act provides

that advisory committees cannot hold any meetings except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government and, in the case of advisory committees other than Presidential advisory committees, with an agenda approved by the officer or employee.

Section 14 of the Federal Advisory Committee Act provides, among other things, that each advisory committee established after October 6, 1972, will terminate not later than the expiration of the two-year period beginning on the date of its establishment unless, in the case of an advisory committee established by the President or an officer of the Federal Government, the advisory committee is renewed by the President or the officer by appropriate action prior to the end of the period; or in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

In addition, section 14 provides that, upon the renewal of any advisory committee, the advisory committee must file a charter in accordance with section 9(c) of the Act. Any advisory committee established by an Act of Congress must file a charter in accordance with the section upon the expiration of each successive two-year period following the date of enactment of the Act establishing the advisory committee. No advisory committee required under section 14(b) of the Act to file a charter can take any action (other than preparation and filing of the charter) prior to the date on which the charter is filed. Any

advisory committee that is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or the officer prior to the date on which the advisory committee would otherwise terminate.)

Section 104, in subsection (f), will exempt the Commission from the requirements of sections 4301 through 4305 of title 5 of the United States Code.

(Note: Section 4301 of title 5, U.S.C., provides definitions for the terms "agency", "employee", and "unacceptable performance".

Section 4302 of title 5, U.S.C., provides, among other things, that each agency must develop one or more performance appraisal systems that provide for periodic appraisals of job performance of employees; that encourage employee participation in establishing performance standards; and that use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.

Section 4302a of title 5, U.S.C., establishes performance appraisal systems for performance management and recognition system employees.

Section 4303 of title 5, U.S.C., establishes procedures for an agency to reduce in grade or remove an employee for unacceptable performance.

Sections 4304 and 4305 of title 5, U.S.C., requires the

Office of Personnel Management to provide technical assistance to agencies in the development of performance appraisal systems, to review the performance appraisal systems, and to prescribe regulations to carry out employee appraisal systems.)

Section 105--Funding

Section 105, in subsection (a), will authorize the Secretary of Agriculture to receive on behalf of the Commission, from persons, groups, and entities within the United States, contributions of money and services to assist the Commission to carry out the duties and functions of the Commission, following the appointment of the members of the Commission, notwithstanding the provisions of section 1342 of title 31 of the United States Code. Any money contributed under section 208 must be made available to the Commission to carry out title II.

In addition, section 105(a) will prohibit the Secretary from accepting an aggregate amount of contributions from any one person, group, or entity exceeding 10 percent of the budget of the Commission.

(Note: Section 1342 of title 31, U.S.C., prohibits an officer or employee of the United States Government from accepting voluntary services or employing personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property.)

Section 105, in subsection (b), will authorize the Secretary

to transfer to the Commission, from the general fund of the Treasury as provided for in advance in appropriation Acts, an amount not to exceed $500,000 to carry out title II, if the contributions under section 208(a) are insufficient to carry out title II.

Section 106--Termination

Section 106 provides that the Commission will cease to exist ninety days after the submission of its report to the Secretary of Agriculture.

TITLE II--FOREST FIREFIGHTING PLANNING AND COOPERATION

Section 201--Findings

Section 201 contains findings of Congress.

Section 202--Annual Report On Rehabilitation Needs Resulting From Forest Fire Damage

Section 202 will require the Secretary of Agriculture to submit an annual report to Congress detailing the rehabilitation needs of each national forest from forest fire damage during the previous year. Each such report will specify the needs with respect to reforestation, vegetation management, timber stand improvement, fish and wildlife habitat restoration, soil conservation, and recreation.

Section 203--Planning for Fire Protection

Section 203, in subsection (a), will require the Secretary of Agriculture, through the Forest Service, to offer annual training programs to certify volunteers for suppressing forest fires on National Forest System lands in the event that the Secretary determines that such volunteers are needed. In carrying out this subsection, the Secretary will use local educational facilities, including institutions established pursuant to the "Morrill Act" (7 U.S.C. 301 et seq) and the "Second Morrill Act" (7 U.S.C. 321 et seq). The Secretary of Agriculture may compensate certified volunteers in whatever manner he deems appropriate.

Section 203, in subsection (b), will require the Secretary of Agriculture to submit a report to Congress documenting local mobilization plans for emergency firefighting equipment in areas of the National Forest which are highly prone to forest fires.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

April 25 1989

Honorable E (Kika) de la Garza
Chairman, Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to your request for a report on H.R. 1011, a bill "To provide for the establishment of the National Commission on Natural Resources Disasters, to provide for increased planning and cooperation with local firefighting forces in the event of forest fires, and for other purposes."

The Department of Agriculture recommends that H.R. 1011 not be enacted.

Title I would establish a National Commission on Natural Resources Disasters. The 25-member commission would be composed of Federal, State, and local officials, timber industry representatives, and community leaders, appointed by the Secretary of Agriculture from nominations made by specified Members of Congress. The commission would study the effects of the 1987 and 1988 fires on the affected communities and National Forest System lands and make recommendations to the Secretary of Agriculture by December 1, 1990, concerning community redevelopment activities and future management of National Forest System lands.

The Secretary would be authorized to receive contributions of money and services from persons, groups, and organizations to assist the commission. If insufficient funds were received, up to $500,000 could be transferred to the commission from the general fund of the Treasury. The commission would cease to exist 90 days after its report was submitted to the Secretary.

Title II would require the Secretary to submit an annual report to the Congress on the rehabilitation needs of each National Forest resulting from forest fire damage during the previous year. It would also require the Forest Service to offer annual training programs to certify volunteers for suppressing fires on National Forest System lands. Within 1 year of enactment, the Secretary would be required to report to the Congress on local mobilization plans for each area of the National Forest System which is highly prone to forest fires.

Damage and rehabilitation assessments following forest and rangeland fires are standard practice, and they address mitigation measures related to fish and

wildlife habitat, watershed rehabilitation, soil erosion, timber salvage, reforestation needs, and other management concerns. We believe our damage and rehabilitation assessments and the resulting actions will adequately respond to the needs of the land and the affected communities.

We do not believe the commission proposed by H.R. 1011 is critically needed, but we would not object to its establishment for a brief period as outlined in H.R. 1011 if section 105(b), which provides for Federal funding of the commission, is deleted. The commission could provide additional useful insights that would benefit the affected communities and enhance the management of burned lands. The recommendations of the commission might also identify future research needs relating to management of burned National Forest System lands and reduce the probability of such losses in the future.

Title II is unnecessary. We already prepare detailed rehabilitation reports after each major fire. We have adequate authority to train and hire volunteer firefighters, and we already prepare annual mobilization plans at the Forest, Regional, and national levels in conjunction with other preparedness activities. These reports and plans are available for congressional and public review.

Training programs are initiated and carried out at the Regional and Forest levels by the Forest Service, often in cooperation with local colleges and universities where interested students are recruited and trained to fight fire for the Forest Service.

We estimate a cost of $300,000 to $500,000 to establish and carry out the duties of the proposed National Commission on Natural Resources Disasters.

In summary, we believe H.R. 1011 is unnecessary. We are now meeting the objectives of H.R. 1011 under existing authorities. We support the concept of the establishment of a commission; however, we object to the use of Federal funds to establish or maintain such a commission.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Clayton Yeutter

Clayton Yeutter
Secretary

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

May 6 1989

Honorable James C. Wright
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Transmitted herewith, for consideration of the Congress, is a draft bill "To amend the Volunteers in the National Forests Act of 1972 to permit volunteers to be considered employees under 31 U.S.C. 3721."

The Department of Agriculture requests that the draft bill be referred to the appropriate committee and recommends its prompt enactment.

The proposed legislation would amend the Volunteers in the National Forests Act of 1972 (Public Law 92-300, 86 Stat. 147) to authorize the Secretary of Agriculture to adjudicate claims from volunteers for damage to, or loss of, personal property incident to volunteer service if possession of such property is determined to be reasonable or useful under the circumstances, and no part of the loss was caused by any negligent or wrongful act of the claimant.

Currently, the Secretary has no authority to reimburse volunteers for damage to, or loss of, personal property that occurs during their volunteer service, except under the Federal Tort Claims Act, where the damage or loss is caused by the negligent or wrongful act or omission of a Federal employee. The current forest volunteer law allows volunteers to be recognized as Federal employees only for purposes of the Federal Tort Claims Act and the Federal Employees' Compensation Act. Incidental expenses are authorized, but this authority does not confer upon volunteers the same status as Federal employees for the purpose of reimbursement of claims.

The proposal will give volunteers the same status as Federal employees for the purpose of reimbursement of claims. The action of the Secretary in settling a claim in full, in part, or disallowing it would be final and conclusive. The following are examples of the volunteers who would be permitted, with enactment of the proposed legislation, to submit claims for property that had been damaged or lost.

1. A volunteer using his own tent, sleeping bag, and cooking gear while inventorying and maintaining trails for the Forest Service had all of his equipment stolen one evening. Everything in the tent was taken, including his personal clothing. The replacement value was approximately $500.

2. A volunteer campground host lost some lawn chairs during a flash flood. The replacement value was $50.

3. A volunteer, using her own camera and equipment to take wildlife pictures along a river for the Forest Service, lost a camera and several lenses when the raft she was riding overturned in some rapids. The replacement value was approximately $1,000.

National Forest volunteers perform a variety of duties including helping visitors at Forest Service interpretive centers, serving as campground hosts, building and maintaining hiking trails, and working on wildlife habitat improvement projects.

The Forest Service recognizes the valuable contributions made by volunteers. Therefore, enactment of this proposal would assist in maintaining the viability and attractiveness of the volunteer program. In 1987, the volunteers program and the Touch America Project attracted over 57,000 participants who contributed more than 1,800 person-years of work valued at approximately $24 million.

Enactment of the proposed legislation would have no significant effect upon the quality of the human environment.

We estimate that the payment of claims under this authority would average about $5,000 annually. Payments would be made from appropriated funds and there would be no increase in budget requests as a result of this legislation.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

A similar letter is being sent to the President of the Senate.

Sincerely,

Clayton Yeutter
Secretary

Enclosures

A B I L L

To amend the Volunteers in the National Forests Act of 1972 to permit volunteers to be considered employees under 31 U.S.C. 3721.

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That the Volunteers in the National Forests Act of 1972 (Public Law 92-300, 86 Stat. 147) is amended by adding at the end of section 3 the following new subsection: "(d) For the purposes of claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, a volunteer under this act shall be considered a Federal employee, and the provisions of 31 U.S.C. 3721 shall apply."

SECTION-BY-SECTION ANALYSIS

This bill would amend the Volunteers in the National Forests Act of 1972 (P L 92-300, 86 Stat. 147) to authorize the Secretary of Agriculture to adjudicate claims from volunteers for damage to, or loss of, personal property incident to volunteer service where possession of such property is determined to be reasonable or useful under the circumstances, and no part of the loss was caused by a negligent or wrongful act to the claimant by a Federal employee. The bill would give volunteers Federal employee status for the purpose of reimbursement of claims. Settlement of a claim in full, in part, or disallowing it would be final and conclusive.

CHANGES IN EXISTING LAW

Act of May 18, 1972 (P.L. 92-300, 86 stat. 147; 16 U.S.C. 558a-558d)

Sec. 1. The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized to recruit, train, and accept without regard to the civil service classification laws, rules, or regulations the services of individuals without compensation as volunteers for or in aid of interpretive functions visitor services, conservation measures and development, or other activities in the related to areas administered by the Secretary through the Forest Service. In carrying out this section, the Secretary shall consider referrals of prospective volunteers made by ACTION.

Sec. 2. The Secretary is authorized to provide for incidental expenses, such as transportation, uniforms, lodging, and subsistence.

Sec. 3. (a) Except as otherwise provided in this section, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(b) For the purpose of the tort claim provisions of title 28 of the United States Code, a volunteer under this act shall be considered a Federal employee.

(c) For the purpose of subchapter I of chapter 81 of title 5 of the United States Code relating to compensation to Federal employees for work injuries, volunteers under this act shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply.

(d) For the purpose of claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, a volunteer under this act shall be considered a Federal employee, and the provisions of 31 U.S.C 3721 shall apply.

Amendment to H.R. 1011

Offered by Mr. Herger

H.R. 1011 is amended by --

1. On page 1, after line 2 insert:

"That this Act may be cited as the "Natural Resources Disaster Recovery Act of 1989.";

2. On page 2, line 22, after "industry representatives," insert: "nonindustrial private forest landowners, conservationists,";

3. On page 2, line 23, at the end of the sentence, insert: "No more than five members shall be appointed from any one state.";

4. On page 4, line 13, strike "1990" and insert "1991."

5. On page 4, at the end of line 15, insert the following new sentence: "The Secretary of Agriculture shall forthwith submit the report to the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition and Forestry of the Senate, and the report is authorized to be printed as a House Document.";

6. On page 4, line 21, strike "service" and insert "serve";

7. On page 6, strike lines 20 through 24 and insert in lieu thereof the following:

"(b) The Secretary of Agriculture shall keep, and shall make available for public inspection during normal business hours, records that fully disclose a complete list of every person, group, and entity making a contribution under this section, the address of the contributor, the amount and type of each such contribution, and the date the contribution was made.

"(c) Any amount of money available to the Commission under this section that remains unobligated upon termination of the Commission shall be deposited in the Treasury as miscellaneous receipts.";

8. On page 7, commencing on line 18 through line 19, strike "national forest resulting from" and insert "Forest Service Region resulting from disastrous";

9. On page 8, strike line 5 through 11 and insert in lieu thereof the following: "utilize existing authorities to train volunteer firefighters for use in fire emergencies. The Secretary should assess the capabilities of educational institutions, including institutions established pursuant to the Act of July 2, 1862 (7 U.S.C. 301 et seq.; commonly known as the "Morrill Act"), or the Act of August 30, 1890 (7 U.S.C. 321 et seq.; commonly known as the "Second Morrill Act"), and other organizations, both those related to federal, state and local governments and private institutions, to provide

training programs for such volunteers.";

10. On page 8, strike all after "Congress" on line 14 through line 17, and insert the following: "in the annual report of the Forest Service the information which documents mobilization plans that provide for the use of firefighting equipment in cases of fire emergencies that may occur in each region of the National Forest System that may be highly prone to disastrous forest fires."; and

11. On page 8, after line 17, insert the following new section:

"VOLUNTEER COMPENSATION FOR LOSSES AND DAMAGES

"Sec. 204. Section 3 of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 588d) is amended by adding the following new subsection:

"(d) For the purposes of claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, a volunteer under this Act shall be considered a Federal employee, and the provisions of 31 U.S.C. 3721 shall apply.".

STATEMENT OF THE HONORABLE WALLY HERGER
BEFORE THE SUBCOMMITTEE ON FORESTS, FAMILY FARMS AND ENERGY
BUSINESS MEETING
JUNE 7, 1989

Thank you, Mr. Chairman, for the opportunity today to amend my bill, H.R. 1011, the "Natural Resources Disaster Recovery Act of 1989". I believe that this legislation is needed in order to provide for greater public input into the policy making process and to improve the federal response to forest fire emergencies. Although I believe that the Forest Service is doing a good job in fighting and mitigating the effects of forest fires, many of my constituents have told me that improvements can still be made to better protect lives and property when catastrophic fires occur. For example, during the time that over 400,000 acres were burning in my district, volunteer firefighters from the area were in southern California fighting fires there. Meanwhile, volunteers who were brought in from other states were experiencing major difficulties because they were not familiar with the lay of the land. I believe the problems involved with catastrophic fires such as those which consumed more than 700,000 acres of forest in California in 1987 and the ones at Yellowstone in 1988 require that we strive for the most effective policies that we can attain.

The amendment I am offering today addresses the concerns that were expressed by both the Forest Service and several of my colleagues at the hearing that was held on March 15th of this year. I have worked very closely with the Forest Service in addressing each one of the objections that they raised in the hearing. I have also worked with you, Mr. Chairman, to ensure that the bill provides for all points of view and all parts o

the country to be adequately represented in the implementation of this act.

I would like to briefly point out the changes which my amendment would make in the original bill. First, some of my colleagues had expressed concern about the composition of the task force established by the bill and whether it would be representative of all points of view. The amendment adds the categories of "conservationists" and "non-industrial private forest landowners" to the existing categories. I believe that this will ensure full representation of all points of view. Also, as amended, the bill will provide that no more than five members shall be appointed from any one state. This will ensure fair representation for the various areas from around the nation which are affected by catastrophic forest fires.

The date by which the report and recommendation are to be submitted to the Secretary of Agriculture has been moved back one year from December 1, 1990 to 1991. This will ensure that there is adequate time for the legislation to be implemented.

The amendment provides for the report required by the bill to be submitted to the Chairmen of the Agriculture Committees in both the House and the Senate for authorization to be printed as a House document.

The amendment addresses the concerns of the Administration and some of my colleagues by providing for complete private funding of the Commission. This was the major objection of the Administration in this time of extremely tight budgetary constraints. The Forest Service has assured me that they will be able to provide the necessary staff support for the operation of

the task force. Also, the amendment provides for full public disclosure of all private donations. Finally, any amount of money that is left over will be returned to the federal treasury.

Title II of the bill is amended to incorporate several minor changes which were suggested by the Forest Service. First, the annual report required of the Secretary of Agriculture on the rehabilitation needs of each national forest would be changed to require a report only of each Forest Service Region in which disastrous fires occured. It was thought that this would be more efficient than requiring a report on each small fire in each national forest.

Secondly, the amendment would require the Secretary of Agriculture to utilize existing authorities in the training of volunteer firefighters rather than granting such authority. It would also direct the Secretary to assess the current capabilities of the Service to use the authority to train volunteers.

Also, the amendment would allow for the required documentation of mobilization plans to be included in the Forest Service's annual report rather than as a separate report. I believe that this will accomplish our goals in a more cost efficient manner.

Finally, I believe it is appropriate to include a new section to the legislation which was not a part of the original discussion. This addition will provide the Secretary of Agriculture with the authority to provide for the compensation of claims for losses and damages of personal property suffered by volunteer fire fighters while serving in volunteer status. Secretary Yuetter has written to both the Speaker of the House as

well as the President of the Senate and asked that this legislation be enacted into law. This is estimated to cost about $5,000 annually, and will help the federal government obtain greater voluntary assistance and use of heavy equipment during fire emergencies.

Again, I want to thank the Chairman for this opportunity, and also for his willingness to work with me in a spirit of cooperation in order to develop a more effective bill. I hope that all of the concerns of my colleagues have been addressed by the changes incorporated in this amendment.

United States Department of Agriculture | Forest Service | Washington Office | 12th & Independence SW
P.O. Box 96090
Washington, D.C. 20090-6090

Reply To: 1510

Date: JUN 7 1989

Honorable Wally Herger
House of Representatives
Washington, D.C. 20515

Dear Congressman Herger:

Thank you for sharing with us your proposed amendments to H.R. 1011 which would establish a National Commission on Natural Resource Disasters. Your amendments address the Administration's concerns about the possible budgetary impacts of the proposed Commission. If your amendments are adopted, the Commission would function using contributions of money and services.

We also note that your amendments include the Administration's proposal to amend the Volunteers in the National Forests Act of 1972 to permit us to pay claims from volunteers who have personal property lost or damaged during their volunteer service. We appreciate your willingness to assist us in this matter.

Sincerely,

GEORGE M. LEONARD
Associate Chief

QUESTIONS ON H.R. 1011

AS INTRODUCED

1. On p. 2, line 17, if the term "such fires" refers to the "natural fire disasters" on p. 1, line 6, does this mean only those fires started by natural causes? Would the Commission not be authorized to study the effects of fires started by careless hikers, for example?

2. On p. 2, line 23 through p. 3, line 12: could all twenty members be appointed from nominations from only one Member of Congress, for example from the nominations of the Chairman of the Senate Agriculture Committee?

3. On p. 3, lines 13 and 14, should this read:

"A vacancy on the Commission shall be filled by appointment by the Secretary of Agriculture"?

Otherwise it looks as though the Secretary himself is supposed to be the one to serve on the Commission in the case of a vacancy.

4. On p. 6, line 18, how is the total budget of the Commission determined for purposes of applying the 10 percent limitation?
(The best combination would be 100% of appropriations for the)

5. On p. 7, lines 18 and 19, should the report be made part of the report already required on reforestation needs under section 3(d)(1) of the Forest and Rangeland Renewable Resources Planning Act of 1974?[1] That report is to be submitted annually at the time of submission of the President's budget rather than April 1 of each year.

MR. HERGER'S PROPOSED AMENDMENTS

6. Amendment to p. 6, lines 20 through 24: since there would be no authorization for appropriations, what if there are no contributions? Does the Secretary need to appoint a Commission anyway?

7. Amendment to p. 8, lines 14 through 17, which annual report of the Forest Service does this refer to?

This is what it is called ⟩ "Report of the Forest Service"

[1] Section 3(d)(1) requires a report on "the amount and location by forests and States and by productivity class, where practicable, of all lands in the National Forest System where objectives of land management plans indicate the need to reforest areas that have been cut-over or otherwise denuded or deforested, and all lands with stands of trees that are not growing at their best potential rate or growth."

Mr. Herger Response To

"Questions On H.R. 1011"

The following responses in the form of amendments, recommended Report language that the Subcommittee could adopt and recommend to the Full Committee, and other actions that the Subcommittee could take with respect to "Questions On H.R. 1011" are submitted (numbered #1 through #7) seriatim below:

#1 Page 3, line 14, insert before the period "in the same manner by which the initial appointments were made as provided in subsection (b)".

#2 Page 6, line 18, the Report accompanying H.R. 1011 should reflect that the 10% limitation shall be based upon the proposed budget adopted by the Commission.

#3 Page 7, lines 18 and 19 relating to the "report" means the reports submitted by the Secretary after the Commission submits its report as provided in section 103(c) and should be a separate report as provided in the bill.

#4 Page 2, line 17, strike "such fires"and insert "fires caused by natural disasters, or other causes resulting in disastrous fires";

#5 Page 2, line 23 through page 3, line 12, the question should be addressed by Report language indicating that to the extent practicable the Secretary should appoint members of the Commission

proportionally from the nominees submitted by those submitting nominations.

#6 There is a presumption in H.R. 1011 that there will be adequate contributions to establish the Commission and start its operations.

The report accompanying the bill could, if deemed necessary, address the "what if" question of what should happen if there were no contributions (the Committee Staff could be given leave to come up with recommended Report language to accompany the bill if the Subcommittee so wishes.).

#7 The report referred to in my Amendment to page 8 of H.R. 1011, lines 14 through 17 (Herger Amendment page 3, item "10" is the "Report of the Forest Service" and my Amendment should so reflect (Committee Staff, it is requested, should have leave to so revise the title of the report).

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 9, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:10 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of continuing to receive testimony on ways to stimulate

econonic growth activity in rural areas.

The following Members were present:

Mr. English	Mr. Grandy	Mr.
Mr. Tallon	Mr. Holloway	Mr.
Mr. Penny	Mr.	Mr.
Mr. Staggers	Mr.	Mr.
Mr. Espy	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Mr. Long	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present

Joe Muldoon, Majority Assistant Counsel
Dave Ebersole, Minority Consultant
Joe Dugan, Assistant Press Secretary
James R. Lyons, Staff Assistant
Francie Monaghan, Staff Assistant

Witnesses:

1. The Honorable Bob Bergland, Executive Vice President, National Rural Electric Cooperative Association, Washington, DC

2. Mr. William R. Allen Jr., President and Chief Executive Officer, Union Equity Cooperative Exchange, Enid, Oklahoma, testifying on behalf of the National Council of Farmer Cooperatives, Washington, DC

3. Mr. Rob Johnson, Executive Director, National Rural Water Association, Duncan, Oklahoma

4. Ms. Margaret Goatcher, President, Cimarron Telephone Company, Mannford, OK., and First Vice President of The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO)

   accompanied by: Mr. John N. Rose, Executive Vice President, OPASTCO

Thursday, June 8, 1989
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
Review of Rural Development

The Chairman called the meeting to order for the purpose of continuing to receive testimony relating to the present state of the economy in rural America. The witnesses listed on page two of these minutes were heard for their prepared testimony and were subsequently questioned by Members of the Subcommittee.

Chairman English thanked the witnesses for their good ideas and suggestions. At 12:10 p.m., he announced that the Subcommittee would stand in recess, subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 8, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing H.R. 2209, the Soybeans Promotion, Research, and Consumer Information Act

The following Members were present:

Mr. Glickman	Mr. Roberts	Mr.
Mr. Johnson	Mr. Emerson	Mr.
Mr. Volkmer	Mr. Grandy	Mr.
Mr. Penny	Mr.	Mr.
Mr. Nagle	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Mr. Campbell	Mr.	Mr.
Mr. Dyson	Mr.	Mr.
Ms. Long	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present:

John E. Hogan, Minority Counsel
Alice Devine, Minority Associate Counsel
Fred Clark, Majority Associate Counsel
Greg Frazier, Subcommittee Staff Director
Cliff Humphrey, Minority Consultant
Glenda Temple, Clerk
Jim Davis, Press Secretary
Anne Keys, Staff Assistant
Tom Lederer, Staff Assistant

Witnesses:

1. Hon. Roy Dyson, Member of Congress from Maryland

   Acc. by: Mr. Bill Bradley, Producer and Treasurer, Mid-Atlantic Soybean Association, Salisbury, Maryland
   Mr. Hank Spies, Producer and Past President, Mid-Atlantic Soybean Association, Cordova, Maryland
   Mr. Jerry Kennedy, Executive Director, Mid-Atlantic and Virginia Soybean Association, Salisbury, Maryland

2. Mr. J. Patrick Boyle, Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Paul Fuller, Director, Livestock Division, Agricultural Marketing Service, USDA
   Mr. Phil Mackey, Director, Oilseeds Division, Foreign Agricultural Service, USDA

3. Panel:

   Mr. James Lee Adams, Jr., President, American Soybean Association, Camilla, Georgia

   Mr. Patrick Delanty, President, Iowa Soybean Association, Charter Oak, Iowa

4. Panel:

   Mr. Harold Dodd, President, Illinois Farmers Union, and Chairman, Executive Committee, National Farmers Union, Springfield, Illinois

   Mr. Doyle Rahjes, President, Kansas Farm Bureau, and Member, American Farm Bureau Federation, Manhattan, Kansas

   Mr. David Senter, National Director, American Agriculture Movement, Inc., Washington, D.C.
   Acc. by: Mr. Harvey Joe Sanner, National President, American Agriculture Movement, Des Arc, Arkansas

Statements Submitted for the Record:

1. Hon. Ron Marlenee, Member of Congress from Montana
2. Hon. Dan Glickman, Member of Congress from Kansas
3. Hon. Bill Emerson, Member of Congress from Missouri
4. Kentucky Farm Bureau Federation

U.S. GOVERNMENT PRINTING OFFICE: 1985 46-381 (3-4)

Thursday, June 8, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Hearing
Soybean Promotion, Research,
and Consumer Information Act
H.R. 2209

Chairman Glickman called the meeting to order for the purpose of reviewing H.R. 2209, a bill to enable producers of soybeans to develop, finance, and carry out a nationally coordinated program for soybean promotion, research, and consumer information, and for other purposes. Messrs. Glickman, Roberts, Johnson and Volkmer made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 12:55 p.m. the meeting was adjourned to reconvene on Tuesday, June 13, to markup the legislation.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 13, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:10 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of continuing to receive testimony on the problems in rural America

The following Members were present:

Mr.	English	Mr.	Coleman	Mr.	
Mr.	Penny	Mr.	Combest	Mr.	
Mr.	Stallings	Mr.	Holloway	Mr.	
Mr.	Nagle	Mr.		Mr.	
Mr.	Harris	Mr.		Mr.	
Mr.	Espy	Mr.		Mr.	
s.	Long	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	

STAFF PRESENT:

Joe Muldoon, Majority Assistant Counsel
Bill Cherry, Subcommittee Staff Director
Dave Ebersole, Minority Consultant
Joe Dugan, Assistant Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

1. Panel

   Ms. Dena G. Stoner, Executive Director, Council for Educational Development and Research, Washington, DC

   Dr. Paul Nachtigal, Co-Director, Mid-Continent Regional Educational Laboratory, Aurora, Colorado

   Dr. Toni Haas, Director for Regional Programs, Mid-Continent Regional Educational Laboratory, Aurora, Colorado

2. Mr. Gary Kennedy, Manager, Panhandle Telephone Cooperative, Guymon, Oklahoma, testifying on behalf of the National Telephone Cooperative Association, Washington, DC

3. Panel

   Mr. Neal J. Barber, Director, Virginia Department of Housing and Community Development, testifying on behalf of the Council of State Community Affairs Agencies, Washington, DC

   Mr. Sherwood Washington, Director, Division of Community Affairs and Development, Oklahoma Department of Commerce, testifying on behalf of the Council of State Community Affairs Agencies, Washington, DC

4. Dr. Kenneth W. Whittington, President-elect of the American Academy of Family Physicians, Washington, DC

5. Mr. Mike Dunn, Legislative Director, National Farmers Union, Washington, DC

Tuesday, June 13, 1989
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
Review of Rural Development

Chairman English called the meeting to order and recognized the witnesses listed on page two of these minutes for their prepared statements on the problems facing the population in rural America. The witneses were then questioned by the Members of the Subcommittee.

During the proceedings, Congressman Nagle shared the duties of the Chair with Mr. English.

After brief closing comments, at 12:45 p.m., Chairman English announced that the Subcommittee would stand in recess, subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 13, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Business Meeting

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act

The following Members were present:

Mr. Glickman, Chrm.	Mr. Marlenee	Mr.
Mr. Johnson	Mr. Roberts	Mr.
Mr. English	Mr. Emerson	Mr.
Mr. Volkmer	Mr. Smith	Mr.
Mr. Penny	Mr. Schuette	Mr.
Mr. Nagle	Mr. Grandy	Mr.
Mr. Jontz	Mr.	Mr.
Mr. Campbell	Mr.	Mr.
Mr. Dyson	Mr.	Mr.
Ms. Long	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Fred Clark, Majority Associate Counsel
Allie Devine, Minority Associate Counsel
Joe Muldoon, Majority Assistant Counsel
Greg Frazier, Subcommittee Staff Director
Cliff Humphrey, Minority Consultant
Glenda Temple, Clerk
Anne C. Keys, Staff Assistant
Tom Lederer, Staff Assistant

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Witnesses:

Present from the Administration to respond to questions:

Mr. J. Patrick Boyle, Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.

Tuesday, June 13, 1989
Subcommittee on Wheat, Soybeans,
and Feed Grains
Business Meeting
Soybean Promotion, Research,
and Consumer Information Act
H.R. 2209

Action Taken:

-- By voice vote Jontz amendment extending refunds to producers to Glickman en bloc amendments not agreed to.

-- By voice vote Glickman en bloc amendments adopted.

-- By voice vote H.R. 2209, as amended, ordered reported to the full Committee.

Chairman Glickman called the meeting to order for the purpose of considering H.R. 2209, a bill to enable producers of soybeans to develop, finance, and carry out a nationally coordinated program for soybean promotion, research, and consumer information, and for other purposes. (See attached copy of bill, brief summary, and section-by-section analysis.) Discussion occurred on the bill.

Mr. Glickman offered the attached en bloc amendments which contained changes suggested at the Subcommittee hearing. He asked counsel to explain the amendments and discussion continued.

Mr. Volkmer suggested that report language should be added indicating that the regulations should include a time period for validity of the sign-ups requesting a referendum. Mr. Glickman agreed with the suggestion and stated that he felt six months would be an appropriate time period.

Mr. Marlenee suggested that report language be drawn up to give guidance to the Department of the Committee's intent to permit the board, its representatives or its employees, to conduct educational and informative sessions with foreign entities. Discussion continued on the suggestion and the Department's interpretation. Mr. Glickman suggested that the language also state that the board cannot negotiate trade policy in its contacts with foreign entities.

Mr. Jontz offered the attached amendment to the Glickman en bloc amendments. The Jontz amendment would extend the limited refund for producers before the time of the initial referendum to all producers at all times. Discussion occurred and by a voice vote the Jontz amendment was not agreed to. Whereupon the Glickman en bloc amendments were adopted by a voice vote.

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H.R. 2209

Discussion occurred on the possibility of having farm organizations represented as members of the soybean board. It was felt that report language should be included recommending that, to the extent feasible, the Secretary should appoint to the board persons who represent farm organizations, providing they are soybean producers and members of the American Soybean Association.

By a voice vote H.R. 2209, as amended, was ordered reported to the full Committee in the presence of a quorum (10 Members present and voting). Staff was given permission to make any necessary clerical and technical changes in the bill, as well as prepare report language discussed by the Subcommittee for the full Committee's consideration.

At 11:00 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

Statement by Hon. Ron Marlenee
Subcommittee on Wheat, Soybeans, and Feed Grains
House Committee on Agriculture
Tuesday, June 13, 1989

H.R.2209, The Soybean Promotion, Research & Consumer Information Act -- Business Meeting

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Mr. Chairman:

I am pleased that the subcommittee is moving rapidly on this important self-help measure for American soybean producers. I understand that the leadership of the American Soybean Association, the American Farm Bureau Federation, and other general farm organizations have worked hard to resolve several of the details contained in the original bill language as discussed in our hearing last Thursday. I commend the fine work of these leaders for their spirit of cooperation and accommodation in resolving these issues so the legislation could move forward.

Before I yield back the balance of my time, Mr. Chairman, I do want to briefly touch on one area of discussion which came up during the hearing last week. I believe U.S.D.A. had testified that they were not satisfied with the scope of actions which might be undertaken with some of the check-off funds in relation to obtaining market access in foreign countries. Let me say that I strongly beleive this legislation should allow -- with the approval of the elected board -- the use of check-off funds for the purpose of identifying abstacles to expanded soybean and

soybean product sales which may exist in foreign countries, and for the purpose of undertaking activities which are designed to reduce or eliminate such barriers. In the course of this activity, Mr. Chairman, I see no harm in allowing the board, its representatives, or its employees to conduct educational and informative sessions with any foreign entities, including foreign governmental leaders if they determine that such activities may lead to expanded trade opportunities.

I would hope we make certain that the bill which is approved today will clearly permit such activities to be funded with a portion of the check-off monies. I would ask that the subcommittee instruct staff to closely review the bill language when we have completed our work here today, and that they be instructed to make any minor changes in the language of the bill -- with the approval of the Chairman and myself -- which may be necessary to clearly reflect this objective. I would also ask that we instruct the staff to prepare strong report language on this issue which may give further guidance to the Department to ensure that they do not overly restrict the range of activities which may be undertaken in regard to expanding market opportunities.

Our soybean producers need all the help we can give them. It would be a shame and a grave injustice to place onerous restrictions on the use of monies which they themselves will be providing through the check-off program.

(H.R. 2209 is held in the committee files.)

BRIEF SUMMARY

H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act

JUNE 13, 1989

H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act, would:

(1) direct the Secretary of Agriculture to issue, upon request of an interested person or on the Secretary's own initiative, promotion, research, and consumer information orders, which are national in scope, and applicable to producers and first purchasers of soybeans;

(2) specify the terms and conditions that must be included in such a soybean order, including:

(a) the establishment of the United Soybean Board to administer the order, with representation by soybean producers;

(b) the establishment of the Soybean Program Coordinating Committee to assist in the administration of the order;

(c) the requirement that the Board and Committee be responsible for their expenses and use staff and facilities of established, nonprofit soybean producer-governed organizations;

(d) the requirement that costs incurred by the Board (not including administrative costs incurred by the Secretary) not exceed 5 percent of revenues; and

(e) the requirement that each first purchaser of soybeans collect assessments from producers;

(3) provide for an initial referendum of soybean producers between 18 and 36 months after the issuance of an order, to ascertain whether the order shall be continued;

(4) provide for additional referenda upon the request of 30 percent or more of soybean producers; and

(5) provide for the enforcement of the provisions of the order through civil money penalties of up to $1,000 per violation, plus double any assessments required by the order.

SECTION-BY-SECTION ANALYSIS

H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act

JUNE 13, 1989

Section 1--Short Title

Section 1 provides that the Act may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

Section 2--Findings and Declaration of Policy

Section 2(a) sets out the congressional findings of the Act, including that (1) soybeans are an important source of foods in the diets of humans and livestock, (2) soybeans play a significant role in the economy of the United States, (3) soybeans and soybean products should be readily available and marketed efficiently, (4) the maintenance and expansion of existing and development of new markets for soybeans are vital to the welfare of soybean producers and the general economy of the United States, (5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs, (6) the cooperative development, financing and implementation of a coordinated program of national soybean promotion, research, and consumer information are necessary to develop, maintain, and expand soybean markets, and (7) soybeans and soybean products move in or directly burden interstate commerce.

Section 2(b) would declare that it is the policy of Congress that it is in the public interest to authorize the establishment of an orderly procedure for developing, financing, and carrying

out a coordinated program of promotion, research, and consumer information for soybeans.

Section 2(c) would provide that nothing in this Act could be construed to control soybean production or otherwise limit the right of individuals to produce soybeans.

Section 3--Definitions

Section 3 provides definitions for a number of terms used in the Act, including:

(1) the term "Board" to mean the United Soybean Board established under section 5(a);

(2) the term "commerce";

(3) the term "Committee" to mean the Soybean Program Coordinating Committee established under section 5(d);

(4) the term "consumer information";

(5) the term "Department" to mean the Department of Agriculture;

(6) the term "first purchaser" to mean (a) any person buying or otherwise acquiring after harvest soybeans from a producer, and anyone having a security interest against the producer under a nonrecourse loan, and (b) the Commodity Credit Corporation in any case in which soybeans are pledged or encumbered under any Federal price support loan program;

(7) the term "industry information";

(8) the term "market access activities" to mean activities designed to identify and eliminate barriers to trade or market access restrictions with regard to soybeans or soybean products.

"Market access activities" do not include actions designed to influence legislation in the United States;

(9) the term "marketing";

(10) the term "net market price" to mean the price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors;

(11) the term "order" to mean an order issued under section 4;

(12) the term "person";

(13) the term "producer" to mean any person engaged in the growing of soybeans who owns, or who shares the ownership and risk of loss of, such soybeans;

(14) the term "promotion" to mean any action, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets;

(15) the term "qualified State soybean board" to mean a state soybean promotion entity authorized by State law or, if no such entity exists in a State, a soybean grower-governed entity that is organized and operating within a State, that receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs, and that is recognized by the Board as the soybean promotion entity within the State;

(16) the term "research";

(17) the term "Secretary" to mean the Secretary of Agriculture;

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(18) the term "soybean products";

(19) the term "soybeans";

(20) the terms "State" and "United States".

Section 4--Issuance of Orders

Section 4(a) provides (1) that the Secretary shall issue orders under this Act applicable to producers and first purchasers of soybeans, (2) that any such order shall be national in scope, and (3) that not more than one order shall be in effect under this Act at any one time.

Section 4(b) establishes procedures for the issuance of a soybean order. Section 4(b)(1) provides that the Secretary may propose the issuance of an order, or an association of soybean producers or any other person that will be affected by the Act may request the issuance of, and submit a proposal for, such an order.

Section 4(b)(2) provides that the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order either (1) not later than 30 days after the receipt of a request and proposal by an interested person for an order, or (2) whenever the Secretary determines to propose an order.

Section 4(b)(3) requires the Secretary to issue the order to become effective not later than one hundred twenty days following publication of the proposed order.

Section 4(c) provides that the Secretary, from time to time, may amend any order issued under section 4. (Note: Section 10(b)

provides that any amendments to a soybean order are subject to the same provisions of the Act, including the rule making and referendum procedures under the Act, as are applicable to the original order.)

Section 5--Required Terms in Orders

Section 5 sets forth the terms and conditions that any order issued under the Act must include.

Section 5(a)(1) requires that the order must provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board must be soybean producers appointed by the Secretary, on a geographic basis, from State units, as provided in sections 5(a)(2) and (3).

Section 5(a)(2) requires the Secretary to establish seats on the Board and to appoint soybean producers to such seats from nominations received from "units" of soybean production. Each State with an average annual soybean production of at least 3,000,000 bushels must be considered as a separate unit. States with less than 3,000,000 bushels average annual production must be grouped with other States into a combined unit. To the extent practicable, (i) each State with average annual soybean production of less than 3,000,000 bushels must be grouped into a combined unit with other such States, and (ii) each combined unit must group geographically contiguous States together. Each combined unit must have an average annual production of soybeans of at least three million bushels.

Section 5(a)(2)(C) provides that each State or combined

unit would be entitled to as many as four seats on the Board, depending on its average annual soybean production, as follows:

Average Annual Unit Production	Number of Board Seats
3,000,000 to 14,999,999 bushels	1
15,000,000 to 69,999,999 bushels	2
70,000,000 to 199,999,999 bushels	3
200,000,000 or more	4

Section 5(a)(2)(D) provides that the Secretary must determine average annual soybean production applicable to a crop year by using the previous five years of production, excluding the high and low years.

Section 5(a)(2)(E) provides that at the end of each three year period following the effective date of the order, the Board may recommend to the Secretary changes in the levels of production to determine per-unit representation on the Board: Provided, that a unit shall not lose Board seats to which it is entitled at the time the order is initially issued unless its average annual production declines below the levels specified in the Act.

Section 5(a)(3)(A) requires that, for each unit established under section 5(a)(2), nominations of persons to serve as members of the Board must be submitted to the Secretary. At least 1.5 nominations must be submitted for each appointment to the Board to which the unit is entitled.

Section 5(a)(3)(B)(i)(I) would require the Secretary to solicit nominations for each appointment to the initially established Board to which a State unit is entitled from the

State soybean board in the State that submits satisfactory evidence to the Secretary that such boards meets the criteria of section 3(15) of this Act. If no such organization exists in the unit, the Secretary must solicit nominations for appointments in a manner that the Secretary determines appropriate.

Section 5(a)(3)(B)(i)(II) would require the Secretary to solicit nominations for each appointment to the initially established Board to which a combined unit is entitled in a manner that the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that meets the criteria of section 3(15) of the Act.

Section 5(a)(3)(B)(ii)(I) would require that nominations for each subsequent appointment to the Board to which a State unit is entitled must be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

Section 5(a)(3)(B)(ii)(II) would require the Secretary to solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

Section 5(a)(4) would require that each appointment to the Board must be for a term of three years, except that appointments to the initially established Board shall be proportionately for

one-year, two-year, and three-year terms. No person may serve more than nine years (three, three-year terms). Board members would serve without compensation, but must be reimbursed for their reasonable expenses.

Section 5(a)(5) would require that the order provide for at least one meeting of the Board annually and specify the circumstances in which additional special meetings of the Board may be held.

Section 5(b) would require that the order must (1) define the powers and duties of the Board and (2) include the following powers and duties of the Board: (1) administer the order in accordance with its terms and provisions; (2) make regulations to effectuate the terms and provisions of the order; (3) elect members of the Board to serve on the Committee; (4) approve or disapprove budgets submitted by the Committee; (5) contract with appropriate persons to implement plans or projects; (6) receive, investigate, and report to the Secretary complaints of violations of the order; (7) recommend to the Secretary amendments to the order; and (8) provide at least annually a report to producers accounting for funds and describing programs implemented.

Section 5(c) would require that the order must establish procedures for the conduct of voting by the Board.

Section 5(c)(2) would require that each member of the Board will be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) Each member will be entitled to cast one vote unless a roll call vote is conducted. On roll call vote

each member will be entitled to cast additional votes as are assigned to the member under subparagraph (B).

(B) The additional votes that each member is assigned for roll call votes shall be computed as follows:

(i) Except as provided in clause (ii), each unit will be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit, on the average, during each of the three previous fiscal years of the Board.

(ii)(I) During the first fiscal year of the Board, each unit will be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during the three immediately preceding crop years.

(II) The order must provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) A unit's total votes must be divided equally among all the members representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

Section 5(c)(3)(A) provides that, except in the case of roll call votes required under subparagraphs (3)(B) and

(3)(C), a motion will carry if approved by a simple majority of members of the Board casting votes.

Section 5(c)(3)(B) provides that any member of the Board may call for a roll call vote on any motion. Except as otherwise provided in section 5(c)(3)(C) or in the bylaws adopted by the Board, whenever a roll call vote is conducted, the motion shall carry only if approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each unit determined by a simple majority of all votes cast by members in that unit).

Section 5(c)(3)(C) provides that a motion by a Board member to authorize any disbursement of funds that would cause outlays under any approved budget to be exceeded must be subject to a roll call vote and will carry only if approved by two-thirds of all eligible votes on the Board and by a simple majority of all units on the Board (with the vote of each unit determined by a simple majority of all eligible votes assigned to that unit).

Section 5(c)(4) provides that in any vote conducted by a committee of the Board, each member of the committee shall have one vote.

Section 5(c)(5) would prohibit any member of the Board from casting a vote by proxy.

Section 5(d)(1) would require that the order provide for the establishment of a Soybean Program Coordinating Committee (the Committee) to assist in the administration of the order.

Section 5(d)(2) provides that the Committee must be composed

of the Chairman of the Board, nine additional members of the Board elected by the Board, and nine producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of State soybean boards and that, on the date of enactment of this Act, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Agriculture Service of the Department.[1] To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization[2] must be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

Section 5(d)(3) provides that the terms of appointment of the Committee must be for one year, and that no person may serve on the Committee for more than six consecutive terms. Committee members will serve without compensation, but will be reimbursed for their reasonable expenses incurred in performing duties for the Committee.

Section 5(d)(4) provides that the Chairman of the Board will serve as Chairman of the Committee.

Section 5(e) requires that the order must define the powers and duties of the Committee, which must include the following:

(1) The Committee must develop and submit to the Board, for approval, budgets on a fiscal year basis of anticipated expenses and disbursements, including probable

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[1] Only the American Soybean Association meets this definition.

[2] The American Soybean Association.

costs of advertising and promotion, research, consumer information, industry information, and market access projects. The Board must approve or disapprove each such budget and, if approved, must submit such budget to the Secretary for the Secretary's approval. Each such budget must be approved or disapproved by the Secretary within thirty days after the Secretary receives the budget.

(2) The Committee must review or, on its own initiative, develop plans or projects of advertising and promotion, research, consumer information, industry information, and market access activities, to be paid for with funds received by the Board. Each such plan or project shall be presented to the Board for approval.

Section 5(f)(1) provides that the Board and Committee must use staff and facilities of established national, nonprofit soybean producer-governed organizations.[2] Such organizations must be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of the Board and Committee.

Section 5(f)(2) requires the order to provide that costs incurred by the Board in administering the order (not including administrative costs incurred by the Secretary) during any fiscal year must not exceed 5 per centum of the projected level of revenues to the Board for that fiscal year.

Section 5(g) requires the order to provide that the Board

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[2] Only the American Soybean Association and the American Soybean Development Foundation meet this definition.

must enter into contracts or agreements for implementing and carrying out of the activities authorized by the Act with established national, nonprofit soybean producer-governed organizations and to provide for the payment on such contracts or agreements with funds received by the Board under the order. Any such contract or agreement shall provide that (1) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project; (2) the plan or project shall become effective upon the approval of the Secretary, and (3) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

Section 5(h) would provide that the order must require the Board to (1) maintain such books and records as the Secretary may prescribe, (2) prepare and submit to the Secretary such reports as the Secretary may prescribe, and (3) account for the receipt and disbursement of all funds entrusted to the Board.

Section 5(i)(1)(A) would require each first purchaser of soybeans from a producer to collect from the producer an assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate. The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser. The net market price of soybeans pledged or encumbered as security for a

loan extended under any Federal price-support loan program will be the principal amount of the loan extended.

Section 5(i)(1)(B) would provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board an assessment established at a rate equivalent to one-half of 1 percent of the net market price of the soybeans sold.

Section 5(i)(2) would require that assessments be used for payment of the expenses incurred in implementation and administration of the order, the establishment of a reasonable reserve, and reimbursement to the Secretary of administrative costs incurred by the Secretary after an order has been issued.

Section 5(i)(3) would require that a producer who can establish that he or she is contributing to a qualified State soybean board can receive credit, in determining the assessment due to the Board, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. There can be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced: Provided, That the Board, with the approval of the Secretary, may authorize exceptions to this State-of-origin rule as appropriate to ensure effective coordination of collection procedures among States.

Section 5(j) would require the establishment of a procedure

hat authorizes the reimbursement of assessments paid by roducers when soybeans, pledged as collateral for a loan issued nder any Federal price support loan program, are redeemed. The irst purchaser of redeemed soybeans would be responsible for ollecting all assessments due and remitting them in the manner rescribed in the order.

Section 5(k) would authorize the Board to provide a credit to each qualified State soybean board in an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such feed by the qualified State soybean board is required by a State statute enacted prior to March 3, 1989: Provided, That the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 per centum of the amount of assessments collected and remitted to the Board.

Section 5(l)(1) would require the order to contain provisions to ensure that, during the period prior to conduct of the initial referendum, each qualified State soybean board receives annually an amount of money equal to the average amount that the State board collected from assessments during each of the fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph 5(l)(3).

Section 5(l)(2) would require that the order provide, effective after the conduct of the initial referendum, subject to paragraph 5(l)(3), that the Board must provide a credit each year

to each qualified State soybean board of an amount by which (A) the amount equal to one cent times the average number of bushels of soybeans produced in the State during each of the preceding five years (excluding the year in which the production is the highest and the year in which the production is the lowest) exceeds (B) the total amount collected by qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection 5(i).

Section 5(l)(3) would provide that the total amount of credits to a qualified State soybean board under paragraphs 5(l)(1) or 5(l)(2) and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in the State under subsection 5(i) in that year.

Section 5(m) would provide that the Board, with the approval of the Secretary, may invest assessment funds only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Income from any such investment may be used for any purpose for which the invested funds may be used.

Section 5(n) would prohibit any funds received by the Board under the order from being used in any manner for the purpose of influencing legislation in the United States.

Section 5(o)(1)(A) would require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order: Provided, That the order shall exempt small farmers processing soybeans of their own production who are not required to pay assessments under the order from such record keeping and reporting requirements.

Section 5(o)(1)(B) would require the Board to define the term "small farmer", as that term is used in subparagraph 5(o)(1)(A).

Section 5(o)(2)(A) would require that information obtained under paragraph 5(o)(1) shall be made available to the Secretary as is appropriate to the administration or enforcement of the Act, or any order or regulation issued under the Act.

Section 5(o)(2)(B) would require the Secretary to authorize the use of information regarding first purchasers that is accumulated under a law or regulation other than the Act or regulations under the Act.

Section 5(o)(3)(A) would require that all information obtained under paragraph (1) shall be kept confidential by all officers and employees of the Department and agents of the Board, and only such information so obtained as the Secretary deems relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is

a party, and involving the order under which the information to be disclosed was obtained.

Section 5(o)(3)(B) would clarify that nothing in subparagraph 5(o)(3)(A) may be deemed to prohibit (i) the issuance of general statements, based upon the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

Section 5(o)(4) would provide that no information obtained under the authority of the Act may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of the Act and any investigatory or enforcement action necessary for the implementation of the Act.

Section 5(o)(5) would provide that any person violating the provisions of subsection 5(o), upon conviction, will be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and if an agent of the Board or an officer or employee of the Department, must be removed from office.

Section 5(p) would require the order to provide terms and conditions as necessary to effectuate the provisions of the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection 5(i).

Section 6--Referenda

Section 6(a) would provide that, not earlier than eighteen months or late than thirty-six months following issuance of an order under section 4 of the Act, the Secretary must conduct a referendum among producers who have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued. Such order will be continued only if it has been approved by not less than a majority of the producers voting in the referendum. If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary must terminate collection of assessments under the order within six months after the referendum and terminate the order in an orderly manner as soon as practicable.

Section 6(b) would require that, after the initial referendum, the Secretary, on request of a representative group comprising 30 per centum or more of the producers who have been engaged in the production of soybeans, may conduct a referendum of all such soybean producers to determine whether such producers favor the termination or suspension of the order. The Secretary must suspend or terminate collection of assessments under the order within six months after the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum and suspend or terminate the order in an orderly manner as soon as practicable after such determination.

Section 6(c)(1) would require that the Secretary be

reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section, except for the salaries of Government employees.

Section 6(c)(2) would require that each referendum be conducted on a date established by the Secretary, under a procedure whereby producers intending to vote in the referendum must certify that they were engaged in the production of soybeans during a representative period and, on the same day, shall be provided an opportunity to vote in the referendum.

Section 6(c)(3) would require referenda to be conduced at county extension offices and provide for absentee mail ballots to be provided upon request.

Section 7--Petition and Review

Section 7(a) would require that any person subject to any order issued under this Act may file with the Secretary a petition stating that such order, any provision of such order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or an exemption from the order. The petitioner must be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary will be required to make a ruling on the petition, which will be final if in accordance with law.

Section 7(b) would vest the district courts of the United States in any district in which such person is an inhabitant or

carries on business with jurisdiction to review a ruling under subsection 7(b), if a complaint for that purpose is filed within twenty days after the date of the entry of such ruling. Service of process in such proceedings may be conducted on the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that the ruling is not in accordance with law, the court must remand such proceedings to the Secretary with directions either (1) to make such ruling as the court determines to be in accordance with law, or (2) to take such further proceedings as, in the opinion of the court, the law requires.

Section 8--Enforcement

Section 8(a)(1) would grant each district court of the United States jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under the Act.

Section 8(a)(2) would require that a civil action authorized to be brought under subsection 8(a) must be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of the Act if the Secretary believes that the administration and enforcement of the Act would be adequately served by providing a suitable written notice or warning to a person who committed such violation or by administrative action under subsection 8(b).

Section 8(b)(1)(A) would provide that a person who willfully violates an order or regulation issued by the Secretary under the

Act may be assessed by the Secretary--

(i) a civil penalty of not more than $1,000 for each violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by the order, an additional penalty equal to the amount of such assessment.

Section 8(b)(1)(B) would provide that each such violation shall be a separate offence.

Section 8(b)(1)(C) would require that, in addition to or in lieu of a civil penalty, the Secretary may issue an order requiring such person to cease and desist from violating such order or regulation.

Section 8(b)(1)(D) would prohibit an order assessing a penalty or a cease and desist order from being issued unless the Secretary gives such person notice and opportunity for a hearing on the record with respect to such violation.

Section 8(b)(1)(E) would provide that an order issued by the Secretary under paragraph 8(b)(1) will be final and conclusive unless such person files an appeal from such order with the appropriate United States court of appeals not later than thirty days after such person receives notice of such order.

Section 8(b)(2)(A) authorizes a person against whom an order is issued under paragraph 8(b)(1) to obtain review of such order in the court of appeals of the United States for the circuit in which such person resides or does business, or in the United States Court of Appeals for the District of Columbia Circuit, by--

(i) filing a notice of appeal in such court not later than thirty days after the date of such order; and

(ii) simultaneously sending a copy of such notice by certified mail to the Secretary.

Section 8(b)(2)(B) would require the Secretary to file promptly in the same court a certified copy of the record on which such violation was found.

Section 8(b)(2)(C) would provide that a Finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

Section 8(b)(3)(A) would provide that a person who fails to obey a valid cease and desist order issued by the Secretary under section 8(b)(1), after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense.

Section 8(b)(3)(B) would provide that each day during which a person continues to fail to obey a valid cease and desist order will be considered a separate violation of such order.

Section 8(b)(4)(A) would require that if a person fails to pay a valid civil penalty imposed by the Secretary under subsection 8(b), the Secretary must refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States.

Section 8(b)(4)(B) would provide that, in such action, the validity and appropriateness of the order imposing a civil penalty shall not be subject to review.

Section 8(b)(4)(C) would require that the remedies provided

in subsections 8(a) and 8(b) shall be in addition to, and not exclusive of, other remedies that may be available.

Section 9--Investigations: Power to Subpoena and Take Oaths and Affirmations; Aid of Courts

Section 9(a) would authorize the Secretary to make such investigations as the Secretary deems necessary for the effective administration of the Act or to determine whether any person subject to the provisions of the Act has engaged or is about to engage in any act that constitutes or will constitute a violation of any provision of the Act, or of any order or regulation issued under the Act.

Section 9(b) would authorize the Secretary, for the purpose of such investigation, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

Section 9(c) would authorize the Secretary, in the case of contumacy by, or refusal to obey a subpoena to, any person, to invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, to require the attendance and testimony of witnesses and the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any

failure to obey such an order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

Section 10--Administrative Provisions

Section 10(a)(1) would provide that, except as provided in section 10(a)(2), nothing in the Act may be construed to preempt or supersede any other program relating to soybean promotion, research, or consumer information organized and operated under the laws of the United States or any State.

Section 10(a)(2) would provide that no State may conduct a referendum relating to the continuation or termination of a qualified State soybean board during the period beginning on the date an order is issued under section 4 and ending eighteen months after the initial referendum on such order is conducted: Provided, That such prohibition shall not be construed to apply to a State referendum on approval of modifications to a State soybean promotion that do not involve termination of the qualified State soybean board.

Section 10(b) would require that the provisions of this Act applicable to orders will be applicable to amendments to orders.

Section 11--Authorization

Section 11 would authorize to be appropriated annually such funds as are necessary to carry out the provisions of the Act. The funds so appropriated will not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this Act.

June 12, 1989

EN BLOC AMENDMENT

OFFERED BY MR. GLICKMAN

TO STRENGTHEN REFERENDA PROVISIONS,
PROVIDE FOR LIMITED REFUNDS
REVISE LOBBYING AND AUDIT PROVISIONS,
CLARIFY TREATMENT OF SOYBEANS UNDER LOAN,
LENGTHEN TIME PERIOD FOR APPROVAL OF BUDGETS,
AND RESOLVE THE MARKET ACCESS ISSUE

(1) Mandatory recall referenda and periodic polls of producers on whether to hold a reconsideration referendum

(a) Strike out line 8 on page 26 and all that follows down through the end of line 21 on page 26, and insert in lieu thereof the following:

"(b) Additional Referenda.--(1)(A) After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

"(B) An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth are producers in any one State, as determined by the Secretary.

"(C) Each additional referendum shall be conducted among all producers who, during a representative period, as determined by

the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

"(2) If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

"(3)(A) To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, five years after the conduct of a referendum under this section and every five years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

"(B)(i) To implement the requirements of clause (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices on a date established by the Secretary, or as provided in clause (ii).

"(ii) In lieu of making such requests in person, producers may make requests by mail. Mail-in requests must be postmarked no later than the date established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

"(C) The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the date established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedures specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the

date and method by which producers can act to request the additional referendum under this paragraph. The Secretary shall take such other actions as the Secretary determines necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

"(D) As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as required under paragraph (1).

"(E) Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than one year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.".

(b) On page 27, line 1, strike out "referendum" and insert in lieu thereof "activity required".

(2) Refunds prior to the initial referendum.

(a) On page 20, between lines 9 and 10, insert the following:

"(2)(A) The order shall provide that, during the period prior to the approval of the continuation of the order in the referendum provided for in section 6(a), as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if--

"(i) such producer is responsible for paying the assessment; and

"(ii) such producer does not support the programs, projects, or activities implemented under the order.

"(B) Subject to the provisions of subparagraph (C)(i), Any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period (not to exceed 90 days) prescribed by the Board.

"(C)(i) In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board; and such board shall process such submissions under procedures established by State statute applicable to refunds of assessments on soybeans.

"(ii) In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

"(D) Subject to the provisions of subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no case more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

"(E) If the Secretary determines that producers do not favor the continuation of the order in the referendum provided for in section 6(a), refunds shall be made under this paragraph on collected assessments until such collections are terminated, as provided in section 6(a).".

On page 20, line 10, strike out "(2) The assessments" and insert in lieu thereof "(3) The assessments (net of any refunds under paragraph (2))".

On page 20, line 15, strike out "(3)" and insert in lieu thereof "(4)".

(b) On page 14, line 13, insert "(net of any refunds made under subsection (i)(2))" after "unit".

(c) On page 18, line 15, insert "(net of any refunds made under subsection (i)(2))" after "Board".

(d) On page 22, line 22, insert "(net of any refunds made under paragraph (2) of subsection (i))" after "subsection (i)".

(3) Definitions

(a) On page 4, line 25, after "products" insert a colon and the following: "Provided, That such term does not include information designed to influence any action or policy of the United States Government".

(b) On page 5, line 16, after "industry" insert a colon and the following: "Provided, That such term does not include information and programs designed to influence any action or policy of the United States Government".

(c) On page 6, line 18, after "markets" insert a colon and the following: "Provided, That such term does not include programs designed to influence any action or policy of the United States Government".

(d) On page 7, line 6, after "products" insert a colon and the following: "Provided, That such term does not include

programs designed to influence any action or policy of the United States Government".

(4) Lobbying

On page 23, strike out line 9 and all that follows down through the end of line 12, and insert in lieu thereof the following:

"(n) PROHIBITION.--(1) Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing any action or policy of the United States Government.

"(2) The prohibition in paragraph (1) shall not apply to--

"(A) the development and recommendation of amendments to the order; or

"(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, industry information, or market development activities under the order.".

(5) Annual audits

On page 19, line 15, insert after "Board." the following:

"The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.".

(6) Assessments on Soybeans Under CCC Loan

On page 21, line 4, strike out "The order shall" and insert in lieu thereof "(1) The order may".

On page 21, line 8, strike out "The" and insert in lieu thereof "In such case, the".

On page 21, between lines 10 and 11, insert the following:

"(2) The procedures in the order for the collection of assessments on soybeans that are pledged as collateral for loans issued under any Federal price support program shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order.".

(7) Time Period for Approval of Budgets

On page 17, line 18, strike out "thirty" and in lieu thereof "45".

(8) Market Access Issue

On page 5, strike out line 17 and all that follows down through the end of line 22, and insert in lieu thereof the following:

"(8) The term 'market development activities' means activities designed to identify and analyze barriers to export sales of soybeans or soybean products and activities designed to communicate, to foreign consumers, importers, wholesalers, retailers, or government officials, information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products: Provided, That such term does not include

programs designed to indluence any action or policy of the United States Government.".

On page 17, line 14, strike out "access" and insert in lieu thereof "development".

On age 17, line 23, strike out "access" and insert in lieu thereof "development".

June 12, 1989 - 4:30pm

DESCRIPTION OF EN BLOC AMENDMENT

The en bloc amendment will strengthen the referenda provisions of the bill, provide for limited refunds of checkoff assessments, revise the bill's lobbying and audit provisions, clarify the treatment of soybeans under loan, lengthen the time period for approval of checkoff program budgets, and resolve the market access issue. It has eight parts, each of which briefly is described below.

Part 1: Mandatory recall referenda and periodic polls of producers on whether to hold a reconsideration referendum.

This proposed amendment to the bill contains two substantive provisions: one to facilitate the holding of recall referenda on whether to continue the soybean checkoff program under the bill and to make the holding of such referenda mandatory if requested by a sufficient number of farmers; and the second to require that all soybean producers be polled every fifth year after a referendum to determine if the producers wish to conduct a reconsideration referendum on the program.

Recall referenda: Under H.R. 2209, as introduced, an additional (or recall) referendum may be held if requested by at least 30 percent of all soybean producers. This provision will be revised by the amendment to--

(a) require the conduct of a recall referendum (if requested by a sufficient number of producers); and

(b) reduce the percentage of soybean producers whose requests for a referendum will trigger the referendum to 10 percent, with the added limitation that no more than one-fifth of the group of requesting producers can come from any one State.

Periodic polls on a reconfirmation referenda: The amendment will add new provisions to H.R. 2209 to require the Secretary of Agriculture, every fifth year following a referendum, to provide soybean producers on opportunity to request an additional (or reconfirmation) referendum. The stated purpose of the new requirement is to facilitate the periodic determination as to whether producers favor the conduct of a referendum.

Under the added provision, the Secretary will be required to--

(a) publish notice in the Federal Register of the producers' opportunity to request the reconsideration referendum, and

(b) take other steps necessary to ensure that producers are made aware of their opportunity.

Also, the United Soybean Board established under the bill to administer the checkoff program will be required to provide written notification to soybean producers of the opportunity to request a reconsideration referendum.

Both the Secretary's notice and the written notifications from the Board must--

(a) be made at least 60 days prior to the date on which producers can request the referendum in person; and

(b) explain the producers' rights and the procedures specified in the bill for the conduct of a referendum, the purpose of the referendum, and the date and methods by which the producers can act to request a referendum.

After soybean producers have been given appropriate notification, the Secretary then must provide a day on which producers have the opportunity to request, in person at county extension offices, the conduct of the reconsideration referendum. In lieu of petitioning in person, producers can mail in requests postmarked no later than the date on which requests can be made

in person; and the Secretary can make mail-in forms available to producers. As soon as practicable after the polling is completed, the Secretary must determine whether a sufficient number of soybean producers has requested the reconsideration referendum (see the description of the first part of the amendment above). If a sufficient number has requested the referendum, the Secretary must conduct it within one year.

(Note: The amendment also makes a conforming change in the bill to extend reimbursement to the Secretary for non-salary costs--from a requirement that the Secretary's costs in the conduct of a referendum under the bill be reimbursed with checkoff assessment funds to a requirement that his costs in connection with any required activity under the referendum provisions be reimbursed.)

Part 2: Refunds prior to the initial referendum

This proposed amendment will add a new provision to the bill to require refund of checkoff assessments, on request by producers, during the period prior to approval or disapproval of the soybean checkoff program in the initial referendum under the bill. Refunds would be made as soon as practicable after request therefor is made, subject to applicable State checkoff refund procedures.

In each State in which there is a qualified State soybean board, the State board will administer the national refund program under the bill (in conformity with procedures established by the statutes of the State involved applicable to refunds of assessments on soybeans).

Unless the State procedure has different time requirements for refunds, refunds under the bill will be made under the following rules:

(a) The producer must demand a refund within 90 days after paying the checkoff assessment.

(b) The refund must be made as soon as practicable after the producer submits satisfactory proof that he paid the assessment, but not later than 60 days after the satisfactory proof is submitted.

This amendment also makes conforming changes in several places in H.R. 2209 where reference is made to checkoff assessments collected under the bill. The conforming changes, in each case, would add the qualifying phase, "net of any refunds". The phrase would be added to the provision in section 5(i) specifying the purpose for which collected assessments can be used; the provision in section 5(c)(2)(B)(i) assigning additional Board votes to Board members based on assessments collected from their States; the provision in section 5(f)(2) limiting Board administrative costs to 5 percent of collected assessments; and the provision in section 5(l)(3) limiting the amount of national

checkoff funds that can be retained by any State annually to the gross amount of checkoff assessments collected in the State under the bill during the year involved.

Part 3: Definitions

This proposed amendment would add clarifying language to the definitions of several terms used in the bill: "consumer information", "industry information", "promotion", and "research". The added language, in each case, states that the term does not include information or programs designed to influence any action or policy of the United States government. (Note: Similar language is contained in the proposed definition of "market development activities". See part 8 below.)

Part 4: Lobbying

This amendment to the bill would provide a substitute for the current prohibition in the bill against lobbying.

As introduced, the bill provides that the promotion and research order issued by the Secretary to govern the soybean checkoff program must prohibit the use of checkoff program funds from being used in any manner "for the purpose of influencing legislation in the United States".

Under the substitute language proposed by the amendment, the prohibition would apply to the use of checkoff funds from being used in any manner "for the purpose of influencing any action or policy of the United States Government", subject to the limited exceptions specified below. The exceptions are--

(a) the development and recommendation of amendments to the order; and

(b) the communication to appropriate government officials of information related to the conduct, implementation, and results of promotion, research, consumer information, industry information, and market development activities under the order.

Part 5: Annual Audits

This proposal will add a new provision to the bill to require the United Soybean Board (which will administer the soybean checkoff program under the bill) to cause its books and records to be audited by an independent auditor at the end of every fiscal year, and submit a report of the audit to the Secretary.

Part 6: Assessments on Soybeans Under CCC Loan

As introduced, H.R. 2209 will require that the soybean checkoff assessment be collected on soybeans put under loan under the CCC price support program as if the soybeans had been marketed, but that to facilitate administration of the order when soybeans under loan are redeemed for marketing, there must be procedures to return the collected assessment to the producer when he redeems the soybeans. Then, the first purchaser of the redeemed soybeans would become responsible for recollecting the assessment.

This amendment will add to the current language in the bill a new provision as follows: The soybean checkoff procedures for the collection of assessments on soybeans that are pledged as collateral for CCC loans must ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order. This language is intended to direct the checkoff program away from procedures whereby checkoff assessments are made up front when the CCC makes the loan and toward development of a procedure for collecting the assessment on loan soybeans only when it is clear the loan will be forfeited to the CCC.

The amendment also will make conforming changes in the current language of the bill relating to procedures for returning assessments to producers on redeemed soybeans.

Part 7: Time period for approval of budgets

As introduced, H.R. 2209 provides that each annual budget for the national soybean checkoff program approved by the United Soybean Board be submitted to the Secretary for his approval, and that the Secretary must approve or disapprove the budget within 30 days after he receives it.

This amendment to the bill simply will extend the time the Secretary will be given to review each budget, from 30 days to 45 days.

Part 8: Market Access Issue

This amendment will delete references to, and the definition of, the term "market access activities" in the bill, and substitute references to, and a definition of, the term "market development activities".

H.R. 2209, as introduced, would authorize market access activities using soybean checkoff funds, and defines the term to mean "activities designed to identify and eliminate barriers to trade or market access restrictions with regard to soybeans or soybean products". Such term, however, is not to include actions designed to influence legislation in the United States.

The substitute authorized activity under this amendment, market development activities, will be defined to mean "activities designed to identify and analyze barriers to export sales of soybeans or soybean products and activities designed to communicate, to foreign consumers, importers, wholesalers, retailers, or government officials, information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products". Such term, however, is not to include any programs designed to influence any action or policy of the United States Government.

Jointy Amd

-------AMENDING THE EN BLOC AMENDMENT-----

REFUNDS PRIOR TO INITIAL REFERENDUM

A portion of the subtitle should be deleted to read only "REFUNDS"

After "(2)(A) The order shall provide that" delete the comma and the words "during the period prior to the approval of the continuation of the order in the referendum provided for in section 6(a), as determined by the Secretary,"

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 14, 1989

(Sub) Committee: Tobacco and Peanuts

Public Hearing

met at 10:15 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the Department of Agriculture's Export Guarantee Programs relating to the U.S. tobacco program

The following Members were present:

Mr. Rose	Mr. Hopkins	Mr.
Mr. Lancaster	Mr. Grant	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present:

John E. Hogan, Minority Counsel
Joe Muldoon, Majority Assistant Counsel
Heidi Pender, Subcommittee Counsel
Joan Rose, Staff Assistant
Richard Jones, Minority Consultant
Glenda Temple, Clerk
Cristy Scott, Staff Assistant

Witnesses:

1. Mr. Christopher Goldthwait, Acting General Sales Manager and Assistant Administrator for Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Lawrence McElvain, Director, Commodity Credit Corporation Operations Division, Foreign Agricultural Service, USDA
   Mr. Harry C. Bryan, Director, Tobacco, Cotton, and Seeds Division, Foreign Agricultural Service, USDA
   Mr. Daniel Stevens, Agricultural Economist, Tobacco, Cotton, and Seeds Division, Foreign Agricultural Service, USDA

2. Mr. Dallas R. Smith, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. J. W. York, Deputy Director, Tobacco and Peanuts Division, ASCS
   Mr. Jack Forlines, Deputy Director, Tobacco and Peanuts Division, ASCS
   Dr. Robert Miller, Group Leader, Commodity Analysis Division, ASCS
   Mr. Robert Tarczy, Economist, Commodity Analysis Division, ASCS

3. Mr. James R. Ebbitt, Assistant Inspector General for Audit, Office of Inspector General, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Craig Beauchamp, Assistant Inspector General for Audit, Office of Inspector General, USDA
   Mr. Richard Long, Deputy Assistant Inspector General for Audit, Office of Inspector General, USDA

4. Mr. Allan I. Mendelowitz, Director, International Trade, Energy, and Finance Issues, U.S. General Accounting Office, Washington, D.C.

   Acc. by: Mr. Phillip J. Thomas, Assistant Director, Agricultural Trade, General Accounting Office
   Mr. Richard Seldin, Office of General Counsel, General Accounting Office

Wednesday, June 14, 1989
Subcommittee on Tobacco and Peanuts
Public Hearing
Review USDA's Export Guarantee Programs relating to U.S. tobacco program

Chairman Rose called the meeting to order for the purpose of reviewing a number of issues including a recent announcement by the Foreign Agricultural Service requesting comments on the American content of Export Credit Guarantee shipments, the status of the Office of Inspector General and General Accounting Office investigations of the GSM 102 and GSM 103 programs, suspension and debarment of individuals who failed to follow program rules and regulations, and the impact of fraud, both under federal programs and private export sales, on the tobacco program and tobacco farmers.

Chairman Rose and Ranking Minority Member Hopkins made opening comments. The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings one recess was taken at 12:00 noon to enable majority Members to respond to a vote in the House Democratic Caucus on leadership positions. At 12:30 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date June 14, 1989

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Hearing

met at 2:05 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing food safety issues

The following Members were present:

Mr. Brown	Mr. Roberts	Mr.
Mr. Rose	Mr. Morrison	Mr.
Mr. Stenholm	Mr. Grandy	Mr.
Mr. Olin	Mr. Walsh	Mr.
Mr. Volkmer	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Mr. de la Garza(ex officio)	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
John Hogan, Minority Counsel
Alice Devine, Minority Associate Counsel
John Aguirre, Minority Consultant
James R. Lyons, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director
William A. Stiles, Jr., Subcommittee Staff Director
Grace McGovern, Staff Assistant

Witnesses:

1. Mr. Jack C. Parnell, Deputy Secretary, U.S. Department of Agriculture, Washington, D.C.

2. Dr. John A. Moore, Assistant Administrator for Pesticide and Toxic Substances, Environmental Protection Agency, Washington, D.C.

Thursday, June 15, 1989
Subcommittee on Department
Operations, Research, and
Foreign Agriculture
Review of Food Safety Issues

Chairman Brown called the hearing to order for the purpose of reviewing food safety issues. Chairman Brown and Mr. Roberts, Ranking Minority Member made opening statements.

The witnesses listed on page 2 were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 4:25 p.m. the meeting was adjourned, subject to the call of the chair.

Grace McGovern

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 15, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:10 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of continuing to review rural development issues

The following Members were present:

Mr. English, Chrm.	Mr. Coleman	Mr.	Mr.
Mr. Tallon	Mr. Gunderson	Mr.	Mr.
Mr. Penny	Mr. Grandy	Mr.	Mr.
Mr. Nagle	Mr.	Mr.	Mr.
Mr. Harris	Mr.	Mr.	Mr.
Mr. Espy	Mr.	Mr.	Mr.
Mr. Long	Mr.	Mr.	Mr.
Mr.	Mr.	Mr.	Mr.
Mr.	Mr.	Mr.	Mr.
Mr.	Mr.	Mr.	Mr.
Mr.	Mr.	Mr.	Mr.
Mr.	Mr.	Mr.	Mr.
Mr.	Mr.	Mr.	Mr.
		Mr.	Mr.
		Mr.	Mr.
		Mr.	Mr.
		Mr.	Mr.

Staff present:

Dan Brinza, Counsel
John Hogan, Minority Counsel
Allie Devine, Minority Associate Counsel
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk

Witnesses:

1. Mr. Jack W. Dickey, President, First National Bank, Thomas, Oklahoma, representing the Independent Bankers Association of America, Washington, D.C.

2. Mr. Sam G. Eberly, Chairman, The Farm Credit Council, Washington, D.C.

3. Mr. Rod Nilsestuen, Executive Secretary, Wisconsin Federation of Cooperatives and Chairman, National Rural Cooperative Task Force, representing the National Cooperative Business Association, Washington, D.C.

4. Panel:

   Mr. Ronald D. Knutson, Department of Agricultural Economics, Texas A&M University, College Station, Texas

   Mr. Dennis U. Fisher, Texas Agricultural Extension Service, Texas A&M University, College Station, Texas

Statement Submitted for the Record:

1. Hon. Mike Espy, Member of Congress from Mississippi

Thursday, June 15, 1989
Subcommittee on Conservation,
Credit, and Rural
Development
Public Hearing
Rural Development

Chairman English called the meeting to order to continue reviewing rural development issues. Mr. English made opening remarks on the need to look into problems facing rural areas in the financial sector.

The witnesses listed on page 2 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 12:20 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 20, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:00 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of receiving additional testimony concerning the rural development issue.

The following Members were present:

Mr. English	Mr. Coleman	Mr.
Mr. Penny	Mr. Gunderson	Mr.
Mr. Stallings	Mr. Combest	Mr.
Mr. Harris	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Ms. Long	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present

Bill Cherry, Subcommittee Staff Director
Dave Ebersole, Minority Consultant
Joe Dugan, Assistant Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

1. Panel
The Honorable Guy Hylton, Mayor, Elk City, Oklahoma, testifying on behalf of The National Association of Development Organizations, Washington, DC

The Honorable Robert Lake, Mayor, Moundville, Alabama, and Chairman, West Alabama Planning and Development Commission

2. Mr. Michael Grove, President, First National Bank, White Sulphur Spring, Montana, testifying on behalf of the American Bankers Association, Washington, DC

3. Panel
Mr. Bruce Abbe, Vice President of Legislative Affairs, Communicating for Agriculture, Minneapolis, Minnesota

Mr. Laurel Sorlie, Chair of the CA Rural Development Committee, Minneapolis, Minnesota

4. The Honorable Gilmer Capps, Chairman, Policy Steering Committee, Center for Agriculture and Rural Development, The Council of State Governments, Lexington, Kentucky

5. Dr. Ayse Somersan, Dean, Cooperative Extension, University of Wisconsin, Madison, Wisconsin

6. Mr. Gary Goldberg, Member, Nebraska Ethanol Authority and Vice President, Clean Fuels Development Coalition, Kearney, Nebraska

Tuesday, June 20, 1989
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
Review of Rural Development

Chairman English called the meeting to order and recognized the witnesses listed on page two of these minutes for their prepared statements. Members of the Subcommittee then questioned the witnesses.

After brief closing remarks, at 12:30 p.m., Mr. English announced that the Subcommittee would stand in recess, subject to the call of the Chair.

Francie Monaghan

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 20, 1989

(Sub) Committee: Forests, Family Farms, and Energy of the Committee on Agriculture, and National Parks and Public Lands of Committee on Interior and Insular Affairs -- Joint Public Hearing

met at 10:15 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the management of old-growth forests of the Pacific Northwest

The following Members were present:

FFFE	NPPL	Members Also Present:
Mr. Volkmer	Mr. Vento	Ms. Unsoeld
Mr. Olin	Mr. Williams	Mr.
Mr. Stallings	Mr. Darden	Mr.
Mr. Jontz	Mr. Clarke	Mr.
Mr. Panetta	Mr. DeFazio	Mr.
Mr. de la Garza	Mr. McDermott	Mr.
Mr. (ex officio)	Mr. Marlenee	Mr.
Mr. Morrison	Mr. Craig	Mr.
Mr. Marlenee	Mr. Rhodes	Mr.
Mr. Smith	Mr. Smith	Mr.
Mr. Schuette	Mr. Thomas	Mr.
Mr. Herger	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Agriculture	Interior and Insular Affairs
Dan Brinza	James Bradley
John E. Hogan	Dale Crane
Joe Muldoon	Nils Johnson
Alice Devine	Charlene Seamens
Tim DeCoster	Kurt Christensen
Allison Biggs	
Glenda Temple	
Jim Lyons	

Witnesses:

1. Honorable Jolene Unsoeld, Member of Congress from Washington

2. Panel - General Overview

   Mr. George T. Frampton, Jr., President, the Wilderness Society, Washington, D.C.

   Mr. Jay D. Hair, President, National Wildlife Federation, Washington, D.C.

   Mr. Brock Evans, Vice President for National Issues, National Audubon Society, Washington, D.C.

   Mr. Charles Raines, Northwest Regional Vice President, Sierra Club, Seattle, Washington

3. Panel - General Overview

   Mr. Douglas Stout, Vice President for Lands and Timber, Bohemia, Inc., Eugene, Oregon

   Dr. Larry Irwin, Wildlife Program Leader, National Council of the Paper Industry for Air and Stream Improvement, Corvallis, Oregon

   Ms. Ann Goos, Executive Director, Washington Commercial Forest Action Committee, Forks, Washington

   Mr. Wes Hedstrom, President, Hedstrom Lumber Company, Grand Marais, Minnesota

4. Panel - Definition and Inventory

   Mr. Peter H. Morrison, Forest Ecologist, The Wilderness Society, Seattle, Washington

   Mr. Charles Sisco, Wildlife Biologist/Forester, National Audubon Society, Olympia, Washington

   Mr. Kent S. Robinson, Policy and Programs Analyst, National Forest Products Association, Washington, D.C.

   Mr. James M. English, Executive Vice President, Idaho Forest Industries, Inc., Coeur D'Alene, Idaho

5. Dr. Jerry Franklin, Chief Plant Ecologist, Forest Service, U.S. Department of Agriculture, Seattle, Washington

6. Panel - Economic Issues

   Mr. Jeffrey T. Olson, Forest Economist, The Wilderness Society, Washington, D.C.

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Tuesday, June 20, 1989
Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture
and
Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs
Joint Public Hearing
Review of management of old-growth forests of the Pacific Northwest

Witnesses Continued:

Mr. Jerry Rust, County Commissioner, Lane County, Eugene, Oregon

Ms. Sue Kupillas, County Commissioner, Jackson County, Oregon

Mr. Alberto Goetzl, Chief Economist, National Forest Products Association, Washington, D.C.
Acc. by: Ms. Jill Nicholson, Government Affairs Representative, Pacific Lumber and Shipping, Seattle, Washington

7. Panel - Management Issues and Area Identification

Mr. Charles G. Levin, Staff Attorney, Headwaters, Grants Pass, Oregon

Mr. George Atiyeh, Miner, Gates, Oregon

Mr. Steven Self, Director of Public Timber Supply, Timber Association of California, Sacramento, California

Mr. Tom Hirons, President, Mad Creek Logging Company, Gates, Oregon

Statements Submitted for the Record

1. Hon. Harold L. Volkmer, Member of Congress from Missouri
2. Hon. Sid Morrison, Member of Congress from Washington
3. Hon. Ron Marlenee, Member of Congress from Montana
4. Hon. Denny Smith, Member of Congress from Oregon

Tuesday, June 20, 1989
Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture
and
Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs
Joint Public Hearing
Review management of old-growth forests of the Pacific Northwest

Mr. Vento, Chairman of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs, called the joint public hearing to order for the purpose of reviewing the management of the old-growth forests of the Pacific Northwest. Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture, made an opening statement. The following Members of the two Subcommittees also made opening comments: Messrs. Morrison, Marlenee, Williams, Smith of Oregon, DeFazio, Rhodes, Herger, and Craig.

The witnesses listed on pages 2 and 3 were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittees.

During the proceedings, Messrs. DeFazio and Jontz assisted with the chairing responsibilities. At 6:10 p.m. the meeting was adjourned to reconvene on Thursday, June 22, to receive testimony from the Forest Service on the issues involved in old-growth forests.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 21, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing produce safety and nutrition

The following Members were present:

Mr. Hatcher, Chrm.	Mr. Emerson	Members Also Present:
Mr. Panetta	Mr. Lewis	Mr. Roberts
Mr. Espy	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Vernie Hubert, Majority Associate Counsel
John Hogan, Minority Counsel
Julia Paradis, Subcommittee Staff Director
Dean Mitchell, Staff Assistant
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk
Francie Monaghan, Staff Assistant

Witnesses:

1. Panel

Mr. Jeff Gargiulo, President, Florida Fresh Fruit and Vegetable Association; Naples Tomato Growers, Inc., Naples, Florida

Mr. David Nunes, Member, Western Growers; The Nunes Co., Inc., Salinas, California

Mr. Michael Martin, Growing Manager, WareHouse Farms, Inc., on behalf of United Fresh Fruit and Vegetable Association, Mission, Texas

2. Panel

Dr. Sanford A. Miller, Professor and Dean, Graduate School of Biomedical Sciences, University of Texas Health Science Center, San Antonio, Texas

Dr. D. Mark Hegsted, Professor of Nutrition Emeritus, Schools of Public Health and Medicine, Harvard University, Southboro, Massachusetts

Dr. Sushma Palmer, Director, Food and Nutrition Board, National Academy of Sciences, Washington, D.C.

Dr. George Graham, Professor, Department of International Health, Division of Human Nutrition, Johns Hopkins University, Joint Appointment for Pediatrics, Johns Hopkins Hospital, Baltimore, Maryland

3. Panel

Ms. Amy Barr, M.S., R.D.; Director, The Good Housekeeping Institute, Good Housekeeping Magazine, New York, New York

Dr. Elaine Bratic Arkin, Adjunct Professor, Institute for Health Policy Analysis, Georgetown University Medical Center, Washington, D.C.

Statements Submitted for the Record:

1. Mr. Stephen M. Wood, President, New Hampshire Fruit Growers Association, and Director, New England Fruit Growers' Council on the Environment, West Lebanon, New Hampshire

2. Hon. Charles Hatcher, Member of Congress from Georgia

3. Hon. Bill Emerson, Member of Congress from Missouri

4. Hon. Leon E. Panetta, Member of Congress from California

5. Hon. Pat Roberts, Member of Congress from Kansas

U.S. GOVERNMENT PRINTING OFFICE: 1987 75-633 (m)

Wednesday, June 21, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Public Hearing
Produce safety and nutrition

Chairman Hatcher called the meeting to order and made brief opening comments on the need to review produce safety and nutrition. Messrs. Lewis and Panetta also made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings, recesses were taken at 10:05 a.m. and 12:13 p.m. to enable Members to respond to recorded votes at the House Democratic Caucus and on the Floor. At 12:45 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date June 21, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:15 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of briefing on futures industry investigation

The following Members were present:

Mr. English	Mr. Coleman	Mr.
Mr. Tallon	Mr. Morrison	Mr.
Mr. Penny	Mr. Gunderson	Mr.
Mr. Espy	Mr. Combest	Mr.
Ms. Long	Mr. Grandy	Mr.
Mr. de la Garza(ex officio)	Mr. Holloway	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
Alice Devine, Minority Associate Counsel
Dave Ebersole, Minority Consultant
Fred Clark, Majority Associate Counsel
Grace McGovern, Staff Assistant

Witnesses:

1. Mr. Bill Cherry, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, House Committee on Agriculture, Washington, D.C.

Wednesday, June 21, 1989
Subcommittee on Conservation,
Credit, and Rural Development
Public Hearing
Briefing on futures industry
investigation

Chairman English called the hearing to order for the purpose of briefing on futures industry investigation. Chairman English made an opening statement. The witness then gave his testimony, and was questioned by the Members of the Subcommittee.

At 11:40 a.m. the meeting was adjourned, subject to the call of the chair.

Grace McGovern

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 21, 1989

(Sub) Committee: Full

Business Meeting

met at 1:20 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 987, the Tongass Timber Reform Act

The following Members were present:

Mr. de la Garza
Mr. Brown
Mr. Rose
Mr. English
Mr. Huckaby
Mr. Glickman
Mr. Stenholm
Mr. Volkmer
Mr. Tallon
Mr. Staggers
Mr. Olin
Mr. Stallings
Mr. Jontz

Mr. Johnson
Mr. Harris
Mr. Espy
Mr. Sarpalius
Ms. Long
Mr. Dyson
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Morrison
Mr. Gunderson
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr. Grandy
Mr. Herger
Mr. Holloway
Mr. Walsh
Mr. Grant
Mr.
Mr.

Members Also Present:
Mr. Young of Alaska

Staff present:
Bert R. Peña
Dan Brinza
John E. Hogan
Joe Muldoon
Alice Devine

Tim DeCoster
Allison Biggs
Charles Hilty
Glenda Temple
Jim Lyons
Jim Davis

Witnesses:

None

Wednesday, June 21, 1989
Full Committee
Business Meeting
Tongass Timber Reform Act
H.R. 987

Action Taken:

-- By voice vote Volkmer amendment providing that the provisions are in conformance with the contracts to the Volkmer substitute amendment agreed to.

-- By voice vote Volkmer substitute amendment, as amended, to H.R. 987 adopted.

-- By voice vote Volkmer amendment providing fisheries protection approved.

-- By voice vote Glickman amendment terminating long-term timber contracts not agreed to.

-- Without objection Jontz report language on preparation of timber for sale approved.

-- By voice vote H.R. 987, as amended, ordered reported to the House.

Chairman de la Garza called the meeting to order for the consideration of H.R. 987, the Tongass Timber Reform Act. The bill was ordered reported to the House by the Committee on Interior and Insular Affairs and sequentially referred to the Committee on Agriculture for a period ending not later than June 30, 1989. (See attached copy of language referred, brief explanation and section-by-section analysis.)

Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy was recognized to explain the legislation (which was similar to H.R. 1368, as reported by the Subcommittee). Mr. Morrison, the Ranking Minority Member of the Subcommittee, submitted the attached statement for the record.

Mr. Volkmer offered the attached substitute amendment (see also explanation, differences and section-by-section analysis), and discussion occurred. Copies of the departmental reports on the bills are also included as an attachment to these minutes.

Wednesday, June 21, 1989
Full Committee
Business Meeting
Tongass Timber Reform Act
H.R. 987

Mr. Volkmer clarified that the substitute amendment would amend titles I and II but not delete section 104 of Title I of the Interior bill, since it had not been considered by the Subcommittee. In addition, he offered the attached amendment to the substitute amendment which would provide that the Forest Service should be the determining factor as to when, where and how to cut--to make clear that the provisions are in conformance with the contracts. Discussion continued.

By a voice vote the Volkmer amendment to the Volkmer substitute amendment was agreed to. Whereupon, the Volkmer subsitutute amendment, as amended, was approved by a voice vote.

Mr. Volkmer offered the attached amendment to section 104(e) to provide fisheries protection by maintaining a buffer zone on each side of all anardromous fish streams. There was no objection to Mr. Volkmer's reforming his amendment with the correct citation, and discussion occurred. By a voice vote the Volkmer amendment was adopted.

Mr. Glickman offered the attached amendment to terminate long-term timber contracts (explanation also attached). Discussion occurred and by a voice vote the amendment was not agreed to.

Mr. Jontz offered the attached report language pertaining to the preparation of timber for sale from the Tongass National Forest. Discussion occurred and without objection the language was approved for inclusion in the Committee Report.

By a voice vote H.R. 987, as amended, was ordered reported to the House. Staff was given permission to make any necessary clerical and technical changes in the bill.

During the proceedings one recess was taken at 2:05 p.m. to enable Members to respond to a recorded vote on the House floor. At 2:35 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

H.R. 987

AS REPORTED BY THE COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

SECTION 1. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.--This Act may be cited as the ``Tongass Timber Reform Act''.

(b) DEFINITION.--As used in this Act, the term ``the Act'' means the Alaska National Interest Lands Conservation Act (Public Law 96-487).

TITLE I--ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENTS

SEC. 101. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT AND RESOURCE CONSERVATION ON THE TONGASS NATIONAL FOREST.

Section 705(a) of the Act (16 U.S.C. 539d.(a)) is repealed effective October 1, 1989.

SEC. 102. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.

Section 705(d) of the Act (16 U.S.C. 539d.(d)) is hereby repealed.

SEC. 103. FUTURE REPORTS ON THE TONGASS NATIONAL FOREST.

(a) MONITORING.--The second sentence of section 706(a) of the Act (16 U.S.C. 539e.(a)) is hereby repealed.

(b) STATUS.--Section 706(b) of the Act (16 U.S.C. 539e.(b)) is amended as follows:

(1) Strike out ``and (4)'' and insert in lieu thereof ``(4)''.

(2) Strike out the period at the end of the section and insert in lieu thereof ``, and (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats.''.

(c) CONSULTATION.--Section 706(c) of the Act (16 U.S.C. 539e.(c)) is amended by striking out ``and the Alaska Land Use Council'' and inserting in lieu thereof ``the southeast Alaska commercial fishing industry, and the Alaska Land Use Council''.

SEC. 104. ADMINISTRATION.

Section 705 (16 U.S.C. 539d) of the Act is amended by adding at the end thereof the following:

``(e) FISHERIES PROTECTION.--In order to assure protection of riparian habitat, the Secretary of Agriculture shall maintain a minimum buffer zone width of 100 feet, consisting of natural, existing undisturbed forest, on each side of all anadromous fish streams and their tributaries in the Tongass National Forest within which logging shall be prohibited.

``(f) TENAKEE SPRINGS ROAD PROHIBITION.--A vehicular access road connecting the Indian River and Game Creek roads may not be constructed, and the Secretary of Agriculture shall not engage in any further efforts to connect the city of Tenakee Springs with the logging road system on Chichagof Island.''.

TITLE II--TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA.

SEC. 201. TERMINATION.

Title V of the Act is amended by adding at the end thereof the following new section:

``SEC. 508. TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS IN ALASKA.

``(a) FINDING.--The Congress hereby finds and declares that it is in the national interest to assure that valuable public resources in the Tongass National Forest are protected and wisely managed. Termination of the long-term timber sale contracts is necessary because the contracts prevent proper Forest Service management, allow the holders to concentrate logging in the rare, high-volume old growth forest most valuable for fish and wildlife habitat, threaten natural resource dependent communities and industries, and undermine competition within the southeast Alaska timber industry.

``(b) TERMINATION OF LONG-TERM TIMBER SALE CONTRACTS.--Not later than 90 days after the date of

enactment of this section, the Secretary of Agriculture shall terminate the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and Alaska Pulp Corporation, and between the United States and Ketchikan Pulp Company, respectively.

``(c) SUBSTITUTION OF SHORT-TERM TIMBER SALES.--The Secretary of Agriculture is authorized to make available sufficient volumes of timber to meet actual market demand as determined pursuant to planning process specified in section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974 and other applicable laws. Timber sales shall be offered for competitive bid and administered consistent with standard, short-term timber sales on other national forests.''.

TITLE III--WILDERNESS

SEC. 301. ADDITIONAL WILDERNESS AREAS.

(a) DESIGNATION.--Section 703 of the Act is amended by adding at the end thereof the following:

``(c) DESIGNATION OF ADDITIONAL WILDERNESS ON THE TONGASS NATIONAL FOREST.--In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands within the Tongass National Forest in the State of Alaska are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

``(1) ANAN CREEK WILDERNESS.--Certain lands which

comprise approximately 38,415 acres, as generally depicted on a map entitled `Anan Creek Wilderness--Proposed' and dated May, 1989, which shall be known as the Anan Creek Wilderness.

``(2) BERNERS BAY WILDERNESS.--Certain lands which comprise approximately 46,135 acres, as generally depicted on a map entitled `Berners Bay Wilderness--Proposed' and dated May, 1989, which shall be known as the Berners Bay Wilderness.

``(3) CALDER-HOLBROOK WILDERNESS.--Certain lands which comprise approximately 68,693 acres, as generally depicted on a map entitled `Calder-Holbrook Wilderness--Proposed' and dated May, 1989, which shall be known as the Calder-Holbrook Wilderness.

``(4) CHICHAGOF WILDERNESS.--Certain lands which comprise approximately 347,733 acres, as generally depicted on a map entitled `Chichagof Wilderness--Proposed' and dated May, 1989, which shall be known as the Chichagof Wilderness.

``(5) CHUCK RIVER WILDERNESS.--Certain lands which comprise approximately 124,539 acres, as generally depicted on a map entitled `Chuck River Wilderness--Proposed' and dated May, 1989, which shall be known as the Chuck River Wilderness.

``(6) KADASHAN WILDERNESS.--Certain lands which

omprise approximately 34,044 acres, as generally epicted on a map entitled `Kadashan ilderness--Proposed' and dated May, 1989, which shall be nown as the Kadashan Wilderness.

``(7) KARTA RIVER WILDERNESS.--Certain lands which omprise approximately 39,886 acres, as generally epicted on a map entitled `Karta River ilderness--Proposed' and dated May, 1989, which shall be nown as the Karta River Wilderness.

``(8) KEGAN LAKE WILDERNESS.--Certain lands which omprise approximately 24,655 acres, as generally epicted on a map entitled `Kegan Lake Wilderness--Proposed' and dated May, 1989, which shall be nown as the Kegan Lake Wilderness.

``(9) NAHA RIVER WILDERNESS.--Certain lands which omprise approximately 31,794 acres, as generally epicted on a map entitled `Naha River Wilderness--Proposed' and dated May, 1989, which shall be known as the Naha River Wilderness.

``(10) NUTKWA WILDERNESS.--Certain lands which comprise approximately 52,654 acres, as generally depicted on a map entitled `Nutkwa Wilderness--Proposed' and dated May, 1989, which shall be known as the Nutkwa Wilderness.

``(11) OUTSIDE ISLANDS WILDERNESS.--Certain lands

which comprise approximately 98,572 acres, as generally depicted on a map entitled `Outside Islands Wilderness--Proposed' and dated May, 1989, which shall be known as the Outside Islands Wilderness.

``(12) PLEASANT-LEMESURIER-INIAN ISLANDS WILDERNESS.--Certain lands which comprise approximately 23,140 acres, as generally depicted on a map entitled `Pleasant-Lemesurier-Inian Islands Wilderness--Proposed' and dated May, 1989, which shall be known as the Pleasant-Lemesurier-Inian Islands Wilderness.

``(13) POINT ADOLPHUS-MUD BAY WILDERNESS.--Certain lands which comprise approximately 73,346 acres, as generally depicted on a map entitled `Point Adolphus-Mud Bay Wilderness--Proposed' and dated May, 1989, which shall be known as the Point Adolphus-Mud Bay Wilderness.

``(14) PORT HOUGHTON-SANBORN CANAL WILDERNESS.--Certain lands which comprise approximately 58,915 acres, as generally depicted on a map entitled ``Port Houghton-Sanborn Canal Wilderness--Proposed' and dated May, 1989, which shall be known as the Port Houghton-Sanborn Canal Wilderness.

``(15) ROCKY PASS WILDERNESS.--Certain lands which comprise approximately 75,734 acres, as generally depicted on a map entitled `Rocky Pass Wilderness--Proposed' and dated May, 1989, which shall be

known as the Rocky Pass Wilderness.

``(16) SARKAR LAKES WILDERNESS.--Certain lands which comprise approximately 25,650 acres, as generally depicted on a map entitled `Sarkar Lakes Wilderness--Proposed' and dated May, 1989, which shall be known as the Sarkar Lakes Wilderness.

``(17) SOUTH ETOLIN ISLAND WILDERNESS.--Certain lands which comprise approximately 83,642 acres, as generally depicted on a map entitled `South Etolin Island Wilderness--Proposed' and dated May, 1989, which shall be known as the South Etolin Island Wilderness.

``(18) SOUTH KUIU WILDERNESS.--Certain lands which comprise approximately 191,532 acres, as generally depicted on a map entitled `South Kuiu Wilderness--Proposed' and dated May, 1989, which shall be known as the South Kuiu Wilderness.

``(19) SULLIVAN ISLAND WILDERNESS.--Certain lands which comprise approximately 4,032 acres, as generally depicted on a map entitled `Sullivan Island Wilderness--Proposed' and dated May, 1989, which shall be known as the Sullivan Island Wilderness.

``(20) TRAP BAY WILDERNESS.--Certain lands which comprise approximately 6,667 acres, as generally depicted on a map entitled `Trap Bay Wilderness--Proposed' and dated May, 1989, which shall be known as the Trap Bay

Wilderness.

``(21) WEST DUNCAN CANAL WILDERNESS.--Certain lands which comprise approximately 134,627 acres, as generally depicted on a map entitled `West Duncan Canal Wilderness--Proposed' and dated May, 1989, which shall be known as the West Duncan Canal Wilderness.

``(22) YAKUTAT FORELANDS WILDERNESS.--Certain lands which comprise approximately 220,268 acres, as generally depicted on a map entitled `Yakutat Forelands Wilderness--Proposed' and dated May, 1989, which shall be known as the Yakutat Forelands Wilderness.

``(23) YOUNG LAKE WILDERNESS ADDITION TO ADMIRALTY ISLAND NATIONAL MONUMENT.--Certain lands which comprise approximately 18,702 acres, as generally depicted on a map entitled `Young Lake Wilderness--Proposed' and dated May, 1989, which shall be managed as an addition to the Admiralty Island National Monument.

``(d) APPLICATION OF SECTION 1315(E).--Section 1315(e) of his Act (16 U.S.C. 3203(e)) shall not apply to the ilderness designated by subsection (c).''.

(b) ADMINISTRATION.--Section 707 of the Act is amended by dding the following at the end thereof: ``Subject to valid xisting rights, the wilderness areas designated in mendments made to section 703(c) of this Act by the Tongass imber Reform Act shall be administered by the Secretary of

Agriculture in accordance with this section, except that, in the case of such areas, any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of the Tongass Timber Reform Act.''.

BRIEF EXPLANATION

H.R. 987

AS REPORTED BY THE COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

Title I of the bill would repeal Section 705(a) of the Alaska National Interest Lands Act (ANILCA). Section 705(a) authorizes and directs the Secretary of the Treasury to make available at least $40 million annually or as much as the Secretary of Agriculture finds is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4.5 billion board feet (bbf) per decade.

Title II of the bill would add a new section to ANILCA to terminate, within 90 days, the long-term contracts for the harvest of timber on the Tongass and substitute competitive bid short-term sales.

Title III of the bill would amend ANILCA to designate 23 areas totalling 1,823,405 acres within the Tongass National Forest as wilderness. The bill would exempt these areas from the application of section 1315(e) of ANILCA. As a result, the Secretary would not be required to substitute timber from other national forest lands for timber on these areas which is subject to any existing national forest timber sale contracts. The bill also clarifies that, except with regard to the long-term contracts, the administration of these designated wilderness areas by the Secretary would be subject to valid rights existing on the date of enactment.

H.R. 987

Section-by-Section Analysis

As reported by the Committee on Interior and Insular Affairs

Title I--Alaska National Interest Lands Conservation Act Amendments

Section 101--To Require Annual Appropriations for Timber Management and Resource Conservation on the Tongass National Forest.

Section 101 of H.R. 987 repeals Section 705(a) of the Alaska National Interest Lands Conservation Act (ANILCA). Repeal of Section 705(a) eliminates both the requirement that the Forest Service make available 4.5 billion board feet of timber from the Tongass per decade and the permanent appropriation of "at least $40 million annually or as much as the Secretary finds is necessary" to supply timber to dependent industry at that rate of 4.5 billion board feet per decade.[1]

Section 102--Identification of Lands Unsuitable for Timber Production.

Section 102 of the bill repeals Section 705(d) of ANILCA. Section 705(d) states that the ANILCA provisions with respect to

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[1] This would not affect section 5202 of the Omnibus Budget Reconciliation Act of 1987, which provided that through September 30, 1989, section 705(a) of ANILCA is not effective. Instead, section 5202 authorized to be appropriated the sum of at least $40 million annually to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4.5 billion board foot measure per decade.

timber supply and funding "shall apply notwithstanding the provisions of section 6(k) of the National Forest Management Act of 1976." Section 6(k) of NFMA requires that the Forest Service designate and withdraw lands that are unsuitable for timber production.

Section 103--Future Reports on the Tongass National Forest.

Section 103(a) repeals the second sentence of section 706(a) of ANILCA. This section eliminates the requirement that the Secretary report to the Committee if the available land base in the Tongass is inadequate to maintain a timber supply to dependent industry at the rate of 4.5 billion board feet per decade.

Section 103(b) amends section 706(b) of ANILCA to require that the Forest Service's biennial review of, and report on, the status of the Tongass National Forest, currently required under section 706(b), specifically include the impact of timber management on subsistence resources, wildlife, and fisheries habitats.

Section 103(c) amends section 706(c) of ANILCA to require that the Forest Service include the southeast Alaska commercial fishing industry in the groups with whom the Forest Service is to cooperate and consult with in the preparation of the status reports required by section 706(b) of ANILCA.[3]

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[3] According to the Interior Committee report, that Committee's intent in section 103(c) is that the Forest Service give more emphasis to the interests of the fishing industry when evaluating timber harvesting practices, land use allocations, and

Section 104--Fisheries Protection and Road Prohibition

Section 104 amends section 705 of ANILCA to--

1) mandate that the Secretary of Agriculture maintain a non-logging buffer zone of a minimum of 100 feet on each side of all anadromous fish streams and their tributaries in the Tongass National Forest.[3]

2) prohibit the Secretary of Agriculture from connecting the City of Tenakee Springs to the logging road system of Chichagof Island, and prohibits the construction of a vehicular access road connecting the Indian River and Game Creek roads.

Title II--Termination of Long-term Timber Sale Contracts in Alaska

Section 201--Termination

Section 201 adds a new Section 508 to Title V of ANILCA. Section 508(a) presents the Congress's findings that termination of long-term timber sale contracts for Tongass timber is in the national interest. Section 508(b) directs the Secretary to terminate the long-term contracts between the United States and the Alaska Pulp Corporation and Ketchikan Pulp Company within 90

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other management decisions concerning the forest resources.

[3] According to the Interior Committee report, section 104(a) is modeled after the 1988 National Marine Fisheries Service's (NMFS) policy for streamside protection in Alaska. The NMFS policy was issued "because of continuous degradation of fisheries habitat by logging activities."

days after the date of enactment. Section 508(c) authorizes the Secretary to make available sufficient volumes of timber to meet actual market demand as determined through the normal Forest Service planning process. Section 508(c) also requires that Tongass timber be offered for competitive bid and administered consistent with standard, short-term timber sales on other national forests.[4]

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[4] According to the Interior Committee report:

> The [Interior] Committee's intent in Section 201 is to place termination of the long-term contracts squarely within the "sovereign act" immunity from governmental liability for damages set forth in Hedstrom Lumber Co., Inc. v. United States, 7 Cl.Ct. 16 (1984). In Hedstrom, which involved cancellation of seven timber contracts as a result of the 1978 Boundary Waters Canoe Area Wilderness Act (P.L. 95-495), the court explained:
>
> > Thus, when the Government interferes by sovereign act with the performance of a contract to which the Government is a party, the Government will not be held liable for breach of contract. The test for determining whether a Governmental action is a sovereign act is whether the action is taken in the national interest and has had 'public and general' application. Id. at 25.
>
> In a statement which makes "sovereign act" immunity directly applicable to H.R. 987, the Hedstrom court further explained that: "[s]urely, the enactment of legislation intended to preserve federal lands in their wilderness state for future public use and enjoyment must be in the national interest." Id. at 27.
>
> The Interior Committee considers termination of the long-term contracts to be an appropriate exercise of the federal government's power to protect the public interest and that, pursuant to "sovereign act" immunity, no damages shall be paid to APC or KPC....
>
> Section 508(c) is, in essence, a restatement of applicable law which authorizes the Secretary to set harvest levels through the normal planning process and to make Tongass timber available to all purchasers by means of standard, competitive bid, short-term sales. This section does not guarantee the former long-term contract holders replacement Tongass timber of equivalent volume and species

Title III--Wilderness

Section 301--Additional Wilderness Areas

Section 301(a) amends Section 703 of ANILCA by adding a new subsection (c) which designates 1,823,405 acres of wilderness in 23 areas of the Tongass National Forest.

Subsection 301(a) also adds a new subsection (d) to section 703 of ANILCA which excludes the 23 wilderness areas designated in subsection (c) from the application of the provisions of section 1315(e) of ANILCA (16 U.S.C. 3203(e)). Section 1315(e) would have directed the Secretary to modify any existing national forest timber sale contracts applying to lands designated as wilderness by substituting timber on other national forest lands.[5]

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or any other preference. Just as in any other national forest, the Secretary shall meet market demand based on sustained yield principles and other planning considerations.

[5] According to the Interior Committee report:

Wilderness designation for the 23 areas would reduce the scheduled Tongass timber harvest of 450 million board feet annually by 49 million board feet. The impact of new wilderness on scheduled timber base of 1.75 million acres is a loss of 238,000 acres. The remaining 1.5 million acres of land scheduled for harvest is capable of producing over 400 million board feet of timber per year. Since ANILCA took effect in 1982, the actual annual average harvest has been only 285 million board feet and the highest actual harvest has been 340 million board feet. Thus, H.R. 987's wilderness withdrawals do not significantly affect the Forest Service's ability to meet current demand for Tongass timber.

When H.R. 987's wilderness designations--which set aside 658,619 acres of commercial forest land ("CFL")--are

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The following lands are designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Anan Creek Wilderness

(2) Berners Bay Wilderness

(3) Calder-Holbrook Wilderness

(4) Chichagof Wilderness

(5) Chuck River Wilderness

(6) Kadashan River

(7) Karta River Wilderness

(8) Kegan Lake Wilderness

(9) Naha River Wilderness

(10) Nutkwa River Wilderness

(11) Outside Island Wilderness

(12) Pleasant-Lemesurier-Inian Islands Wilderness

(13) Point Adolphus-Mud Bay Wilderness

(14) Port Houghton-Sanborn Canal Wilderness

(15) Rocky Pass Wilderness

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combined with the existing ANILCA wilderness, a total of 2,140,000 acres (37.3 percent) of the 5,736,000 acres of CFL on the Tongass will be statutorily off limits to timber harvesting. Over 2 million acres of non-wilderness CFL remains subject to the planning process in the Tongass Land Management Plan ("TLMP"). When added to the 1.5 million acres of CFL scheduled for harvest and unaffected by wilderness designations, 3.6 million acres (62.7 percent) of Tongass CFL will remain available for timber management by the Forest Service.

(16) Sarkar Lakes Wilderness

(17) South Etolin Island Wilderness

(18) South Kuiu Island Wilderness

(19) Sullivan Island Wilderness

(20) Trap Bay Wilderness

(21) West Duncan Canal Wilderness

(22) Yakutat Forelands Wilderness

(23) Young Lake Wilderness

Section 301(b) also clarifies that valid rights and authorized uses under ANILCA (other than those associated with the long-term contracts), existing on the date of enactment of the legislation, are protected.

STATEMENT OF
THE HONORABLE SID MORRISON
COMMITTEE ON AGRICULTURE
TONGASS NATIONAL FOREST MARK-UP
JUNE 21, 1989

Thank you Mr. Chairman. Today marks what I hope will be the resolution of this Committee's consideration of a complex and controversial issue spanning more than a year's time, the management of the Tongass National Forest.

Mr. Chairman, we have before us the bill marked-up by the House Interior Committee. While I appreciate the great amount of work that Committee has done to prepare this legislation, I think the bill passed from our Forests, Family Farms and Energy Subcommittee does more to provide for the proper future, balanced management of the Tongass National Forest.

As you know, our bill repeals the permanent annual appropriation for the Tongass timber program. It also directs the Secretary of Agriculture to renegotiate the two, long-term contracts in order to bring the planning and management practices on the Tongass into conformance with those of other national forests and increases the emphasis given to non-timber resources on the forest.

Earlier in our consideration of this legislation I referred to it as a starting point for the Tongass. With the legislation

our Subcommittee has produced, I believe we have designed a bill which prepares enough timber to meet market demands but still achieves the multiple-use objectives we all find crucial to this nation.

Again, thank you Mr. Chairman, for allowing me to share my thoughts.

AMENDMENT TO H.R. 987

AS REPORTED BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

1. Strike all of Titles I and II and insert the following:

TITLE I--IMPROVEMENT OF THE MANAGEMENT OF THE TONGASS NATIONAL FOREST.

SECTION 101. AMENDMENT OF TONGASS NATIONAL FOREST LONG-TERM TIMBER CONTRACTS TO BETTER ACHIEVE FOREST MANAGEMENT OBJECTIVES.

(a) Finding.--The Congress finds that changes in the long-term timber contract between the United States and the Ketchikan Pulp and Paper Company, Contract No. A10fs-1042, and the long-term timber contract between the United States and the Alaska Pulp Corporation, Inc., Contract No. 12-11-010-1545 (hereinafter referred to as "contracts") are necessary because the contracts prevent proper management of the Tongass National Forest, have undermined fair competition in the southeast Alaska timber industry, and fail to provide a fair financial return to the United States.

(b) Amendment.--The joint resolution entitled a "Joint Resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest" approved August 8, 1947 (61 Stat. 920), is amended by adding at the end the following:

"SEC. 4. AMENDMENT OF TONGASS NATIONAL FOREST LONG-TERM TIMBER CONTRACTS TO BETTER ACHIEVE FOREST MANAGEMENT OBJECTIVES.

"(a) No later than 90 days after the date of enactment of this section, the Secretary of Agriculture shall enter into negotiations with the holders of the contracts specified in section 101(a) of the Tongass Timber Reform Act (hereinafter referred to in this section as the 'contracts') to make changes in the contracts that will achieve the objectives specified in subsection (b), to the extent that the objectives cannot be achieved solely through unilateral actions of the Secretary of Agriculture. To the extent that the objectives specified in subsection (b) can be achieved solely through unilateral action, the Secretary of Agriculture shall, within one year of the date of enactment of this section, take such actions as are necessary to achieve those objectives.

"(b) Action and negotiations pursuant to this section shall be undertaken in order to achieve the following objectives:

"(1) To bring forest planning and management practices regarding the Tongass National Forest into conformance with such planning and practices regarding other national forests and, in light of the amendment to section 705 of the Alaska National Interest Lands Conservation Act made by the Tongass Timber Reform Act, into compliance with the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act of 1969, and other laws applicable to the National Forest System;

"(2) To provide that the holders of the contracts pay

stumpage rates under such contracts comparable to those paid in connection with other sales of timber out of the Tongass National Forest;

"(3) To promote fair competition within the timber industry in southeast Alaska;

"(4) To enhance the protection of fish and wildlife resources and habitats in the Tongass National Forest by preventing excessive harvesting of high-volume old-growth timber;

"(5) To bring administration of the contracts into conformance with the administration of short-term sales by implementing the recommendations of the 'Reid Brothers Anti-Trust Case Review Team Findings', printed as an appendix to the Report of the Committee on Agriculture of the House of Representatives to accompany the bill H.R. 987; and

"(6) To provide that the operating plans under the contracts are at all times consistent with the land management plan then in effect for the Tongass National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).".

(c) Report to Congress.--

(1) No later than one year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Congress a written report concerning the implementation of section 4 of the joint resolution entitled a "Joint

Resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest" approved August 8, 1947 (61 Stat. 920), as added by subsection (b) of this section.

(2) Such report shall--

(A) describe the actions taken, and the results of the negotiations entered into, pursuant to such section 4(a), including the extent to which the holders of the contracts have agreed to changes in such contracts in order to achieve the objectives specified in such section 4(b);

(B) include recommendations for congressional action to achieve the objectives specified in such section 4(b); and

(C) in the event that the Secretary of Agriculture determines that the objectives specified in such section 4(b) have not been achieved through actions pursuant to such section 4, provide an analysis of the extent to which the objectives would be achieved through termination of the contracts.

SEC. 102. APPLICATION OF FOREST MANAGEMENT PRACTICES TO THE TONGASS NATIONAL FOREST.

(a)(1) Preparation of Timber for Sale.--Subject to the provisions of the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.) and the Forest and Rangeland Renewable

Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), the Secretary of Agriculture shall prepare sufficient timber for sale from the Tongass National Forest to meet projected market demand, as determined by the Secretary of Agriculture, up to 4.5 billion board feet per decade beginning with the decade beginning January 1, 1990.

(2) The 4.5 billion board feet measure per decade shall not affect the forest planning process set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(b) Forest Management Practices.--The Secretary of Agriculture shall exercise independent judgement in determining the location and size of sale units and the manner and timing of timber harvests for the Tongass National Forest. The Secretary of Agriculture shall make such determination in accordance with those laws, guidelines, standards and policies relating generally to timber sales from other forests within the National Forest System. With regard to such determination, the Secretary of Agriculture may receive and consider proposals submitted pursuant to the contracts as well as comments from prospective purchasers and other parties, but need not adhere to such proposals or comments.

SEC. 103. MANAGEMENT OF THE TONGASS NATIONAL FOREST.

(a) Findings.--The Congress finds that--

(1) the commercial fishing, recreation, timber, and

tourism industries each make a substantial contribution to the economy of southeast Alaska and their ability to contribute in the future depends upon balanced planning and management of the Tongass National Forest; and

(2) the Secretary of Agriculture should plan and manage the Tongass National Forest in a manner that adequately protects and enhances fish, wildlife, and recreation resources, as well as timber, and should act in the long-term best interests of all natural resources dependent industries and subsistence communities in southeast Alaska.

(b) Purposes.--The purposes of this section are--

(1) to require the Secretary of Agriculture to assess the extent to which planning and management of the Tongass National Forest prior to the enactment of this Act has differed from planning for, and management of, other national forests; and

(2) to require the Secretary of Agriculture to change, in conformance with laws applicable to the National Forest System, planning and management priorities regarding the Tongass National Forest so as to assure that greater emphasis is given to the long-term best interests of the commercial fishing, recreation, and tourism industries, subsistence communities in southeast Alaska, and the national interest in the fish and wildlife and other natural resources of the Tongass National Forest.

(c) Directive.--The Secretary of Agriculture is authorized and directed to take such steps as are necessary to achieve the purposes described in subsection (b).

(d) Old-Growth Forest Management.--In developing the land management plan for the Tongass National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, the Secretary shall--

(1) provide for sustained production of old-growth forest resources within the Tongass National Forest; and

(2) upon completion of the draft of such plan, which shall be completed in any event not later than one year after the date of enactment of this Act, report to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry on provisions incorporated into such plan to meet the objective set forth in paragraph (1). The report shall include--

(A) the definition of the term "old-growth forest" used for purposes of such plan;

(B) the quantity and distribution of old-growth forest in the Tongass National Forest;

(C) the management objectives and guidelines incorporated into such plan to provide for sustained production of old-growth forest resources;

(D) the criteria used to determine how to integrate old-growth forest management objectives into the plan;

and

(E) the relationship between old-growth forest management objectives and other resource management goals affecting timber, fish and wildlife, water quality, recreation, subsistence uses, and aesthetics.

SEC. 104. AMENDMENT TO ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AND CONFORMING AMENDMENT.

(a) The Alaska National Interest Lands Conservation Act is amended by--

(1) striking sections 705(a) and (d);

(2) striking in section 706(a) "and the Committee on Interior and Insular Affairs" and inserting "the Committee on Agriculture and the Committee on Interior and Insular Affairs";

(3) striking the second sentence of subsection (a) of section 706 and inserting the following new sentence:

"This report shall include a complete analysis of the losses or gains sustained by the United States Government with respect to long-term, short-term and total sales of timber from the Tongass National Forest using information from the statement on revenues and expenses of the Timber Sale Program Information Reporting System and shall display total costs, unit costs (per thousand board feet of timber sold or released) and associated revenues, for the current and

previous two years of operations;"."

(4) striking in section 706(b) "and (4)" and inserting "(4)";

(5) striking the period at the end of section 706(b) and inserting ", (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats, and (6) the steps taken by the Secretary of Agriculture under section 103(c) of the Tongass Timber Reform Act."; and

(6) striking in section 706(c) "and the Alaska Land Use Council" and inserting "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council".

(b) Section 5202 of the Omnibus Reconciliation Act of 1987 is repealed.

2. Redesignate Title III as Title II and renumber the sections accordingly.

BRIEF EXPLANATION

AMENDMENT TO H.R. 987

Title I of the bill would direct the Secretary of Agriculture to achieve certain specified objectives and to negotiate with the holders of long-term timber contracts on the Tongass National Forest to modify such contracts, to the extent the objectives cannot be achieved through the Secretary's unilateral actions. The bill would require the Secretary to report to Congress within one year on the result of these actions.

The bill would repeal the permanent appropriation for the maintenance of the Tongass timber supply but would require the Secretary to prepare sufficient timber to meet projected market demand. The bill would also require the Secretary to exercise independent judgement in determining the location and size of timber sale units and the manner and timing of harvests on the Tongass in conformance with the timber sale site selection process used for other National Forests.

The bill would require the Secretary to change planning and management priorities to give greater emphasis to certain national and local interests.

AMENDMENT TO H.R. 987

AS REPORTED BY THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

SECTION-BY-SECTION ANALYSIS

TITLE I--IMPROVEMENT OF THE MANAGEMENT OF THE TONGASS NATIONAL FOREST.

Section 101 -- Amendment of Tongass National Forest long-term timber contracts to better achieve forest management objectives.

Section 101(a) sets forth certain findings of Congress.

Section 101(b) amends the Joint Resolution of August 8, 1947 by adding a new section 4 to do the following:

Section 4(a) directs the Secretary, within one year from the date of enactment, to unilaterally take whatever action is necessary to achieve the objectives enumerated in section 4(b). To the extent that these objectives are not achievable by unilateral action, the Secretary, within 90 days from the date of enactment, is to commence negotiations with holders of certain long-term timber sale contracts (specified in section 101(a) of this Act) to modify the contracts to achieve those objectives.

Section 4(b) lists the objectives sought to be achieved. These are:

1) to bring forest planning and management practices regarding the Tongass National Forest into conformance

with such planning and practices regarding other national forests and the laws generally applicable to those other national forests;

2) to provide that the holders of these contracts pay stumpage rates comparable to the rates paid for other timber sales out of the Tongass National Forest;

3) to promote fair competition within the timber industry in southeast Alaska;

4) to enhance the protection of fish and wildlife resources and habitats in the Tongass National Forest by preventing excessive harvesting of high-volume old-growth timber;

5) to bring administration of these contracts into conformance with the administration of short-term sales by implementing the recommendations of the "Reid Brothers Anti-Trust Case Review Team Findings" (reproduced as an appendix to the Report of the Committee on Agriculture of the House of Representatives to accompany the bill); and

6) to make the operating plans under these contracts at all times consistent with the Tongass Land Management Plan.

Section 4(c) requires the Secretary of Agriculture to report to Congress the actions taken under this section, the results of any negotiations to modify the long-term timber

contracts, and the Secretary's recommendations for congressional action to achieve the objectives of this section. In the report, the Secretary would also provide an analysis of the extent to which termination of the contracts would achieve any of the objectives not otherwise achieved through actions pursuant to such section 4.

Section 102 - Application of forest management practices to the Tongass National Forest

Section 102(a) requires the Secretary of Agriculture, subject to laws generally applicable to the preparation of timber sales, to prepare sufficient timber to meet projected market demand. The Secretary could not prepare in any event more than 4.5 billion board feet (bbf) per decade. The requirement becomes effective with the decade beginning on January 1, 1990. Paragraph 2 of section 2(a) provides that the planning process in the Forest Renewable Resources Planning Act of 1974 is not to be affected by the 4.5 bbf measure per decade.

Section 102(b) directs the Secretary to exercise independent judgement in determining the location and size of sale units and the manner and timing of timber harvests on the Tongass National Forest and to make such determination in accordance with applicable laws, guidelines, standards and policies relating generally to timber sales in other forests within the National

Forest System. In making these determinations, the Secretary would be permitted to consider proposals submitted pursuant to these contracts as well as comments from other parties, including prospective purchasers, but would not need to adhere to such proposals or comments.

Section 103 - Management of the Tongass National Forest

Section 103(a) provides certain findings of Congress regarding management of the Tongass National Forest. Section 103(b) provides that the purposes of this section are to require the Secretary:

(1) to assess the extent to which there are differences in planning and management of the Tongass National Forest from other national forests; and

(2) to change the priorities of such planning and management to give greater emphasis to certain national and local interests.

Section 103(c) authorizes and directs the Secretary to take the necessary steps to achieve the purposes in section 103(b). Section 103(d) directs the Secretary to provide for the maintenance of old-growth forest resources within the Tongass National Forest and to report back to the House and Senate Agriculture Committees regarding the provisions incorporated into the Tongass Land Management Plan to meet this objective. Such plan shall be completed not later than one year after the date of

enactment of the bill.

Section 104 - Amendment to Alaska National Interest Lands Conservation Act and conforming amendment.

Section 104(a) amends the Alaska National Interest Lands Conservation Act (ANILCA) by:

(1) repealing section 705(a), which authorizes and directs the Secretary of the Treasury to make available to the Secretary of Agriculture at least $40 million per year, or as much as is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of 4.5 bbf per decade.

(2) repealing section 705(d) which presently makes the provisions of section 6(k) of the Forest and Rangeland Renewable Resources Planning Act of 1974 inapplicable to section 705 of ANILCA. Section 6(k) provides for the identification and [illegible] of lands not suited for timber production.

(3) including the Committee on Agriculture as a recipient of the Secretary's report on timber supply and demand in southeast Alaska required under section 706(a).

(4) repealing the requirement in section 706(a) that the Secretary include in his report any finding that the available land base in the Tongass National Forest is inadequate to maintain the timber supply to dependent

industry at the rate of 4.5 bbf per decade and inserting the requirement that the Forest Service's annual report on the Tongass National Forest include an accounting of the costs and revenues associated with the timber sale program. Data would be generated from the statement on revenues and expenses of the Timber Sale Program Information Reporting System (TSPIRS). The TSPIRS was developed jointly by the Forest Service and the General Accounting Office as directed by Title II of Conference Report 1159 accompanying H.J. Resolution 648. Data would be displayed with respect to the long-term and short-term timber sales as well as the total timber sales program. For assessing trends, these data would be presented for the current and previous two years.

(5) directing the Secretary to include a review of the impact of timber management on subsistence resources, wildlife and fisheries habitats and the steps taken by the Secretary under section 103(c) in the Secretary's biennial report on the status of the Tongass National Forest under section 706(b).

(6) including the southeast Alaska commercial fishing

industry in the groups with whom the Secretary is to consult and cooperate in conducting the study required under section 706.

Section 104(b) repeals section 5202 of the Omnibus Reconciliation Act of 1987, which replaced section 705(a) of ANILCA through September 30, 1989.

SUMMARY OF MAJOR DIFFERENCES

BETWEEN H.R. 987 AND THE SUBCOMMITTEE AMENDMENT

* ANILCA AMENDMENTS

(1) H.R. 987 repeals the existing requirement that the Forest Service make available 4.5 billion board feet of timber from the Tongass National Forest per decade. (Sec. 101)

The amendment also repeals the existing requirement, but requires the Secretary of Agriculture, subject to laws generally applicable to the preparation of timber sales, to prepare sufficient timber sales from the Tongass to meet projected market demand for dependent industry, up to 4.5 billion board feet per decade. (Sec. 102)

(2) The amendment requires the Forest Service to include in its annual Tongass report an accounting of the costs and revenues associated with the timber sale program.

H.R. 987 has no comparable provision.

* TONGASS MANAGEMENT

(1) H.R. 987 requires the Forest Service to maintain a non-logging buffer zone of at least 100 feet on each side of all anadromous fish streams and their tributaries in the Tongass. (Sec. 104(a))

The amendment has no comparable provision.

(2) H.R. 987 prohibits the Forest Service from constructing a road connecting the Indian River and Game Creek roads and from further efforts to connect the city of Tenakee Springs with the logging road system on Chichagof Island. (Sec. 104(b))

The amendment has no comparable provision.

(3) The amendment directs the Secretary to exercise independent judgement in determining the locations and size of sale units and the manner and timing of timber harvests on the Tongass. (Sec. 102(b))

H.R. 987 has no comparable provision.

(4) The amendment directs the Secretary of Agriculture to assess the extent to which the Tongass is managed differently than other national forests and to change the priorities of planning and management to give more balanced emphasis to certain national and local interests. The amendment further directs the Secretary to provide for the maintenance of old growth forest resources within the Tongass. (Sec. 103)

H.R. 987 has no comparable provision.

* LONG TERM CONTRACTS

H.R. 987 directs the Secretary of Agriculture to terminate the two existing long term Tongass timber sale contracts, and authorizes the Secretary to set timber harvest levels through the normal Forest Service planning process and to make available Tongass timber by means of standard, competitive bid, short term sales. (Sec. 201)

The amendment sets out objectives for modifications in the long term contracts, and directs the Secretary to take actions to achieve the objectives unilaterally if possible and to commence negotiations with the other parties to the contracts to attempt to achieve the objectives. (Sec. 101)

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

JUN 21 1989

Honorable E (Kika) de la Garza
Chairman, Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We wish to offer our views on H.R. 987, "The Tongass Timber Reform Act," as reported on May 31 by the House Committee on Interior and Insular Affairs.

H.R. 987 would repeal sections 705(a) and 705(d) of the Alaska National Interest Lands Conservation Act (ANILCA), terminate the existing long-term timber sale contracts in Alaska, require 100-foot "buffer strips" in which no logging would be permitted on each side of streams and tributaries used by anadromous fish, and create 23 wilderness areas totaling nearly 1.8 million acres on the Tongass National Forest.

The Administration strongly supports the wise, balanced management of all the resources of the Tongass National Forest. The revision of the Tongass Forest Plan, which is scheduled to be completed in the next year in accordance with the provisions of the National Forest Management Act, will address the subject of this legislation. We, therefore, believe that H.R. 987 is premature, and we oppose its enactment. We are opposed to designation of new wilderness areas prior to revision of the Forest Plan. We are particularly opposed to the provisions of section 201 which would terminate the existing long-term timber sale contracts on the Tongass.

It is our belief that cancellation of the long-term timber sale contracts would have great potential for economic dislocations in Southeast Alaska. We believe considerable compensation would be required to terminate these contracts.

Wood products from timber harvested on the Tongass occupy an important position in the Pacific Rim market and contribute to a more favorable balance of trade. Significant foreign investments have been made in Southeast Alaska as a result of these contracts, and their cancellation would send an unfavorable signal to our partners in the international business community.

The Tongass National Forest, under existing law, is managed to achieve balanced resource management and to sustain public benefits. The forests of the Tongass are highly productive not only for timber but also for a variety of other resources. Timber harvests are established at levels that can be sustained in perpetuity and that protect other resource values. Prompt

reforestation ensures a productive and growing forest for future generations. Activities under the long-term contracts are carefully controlled. Legislation such as H.R. 987 is not necessary to manage the Tongass in an environmentally sound manner.

The detailed management direction prescribed in H.R. 987 is contrary to the intent of the National Forest Management Act. These detailed management prescriptions are more appropriately treated as part of the forest planning process. We believe that the management direction in the Tongass Forest Plan represents a reasoned and balanced management approach and that a conscientious effort is being made to listen to all interested parties in development of the revised Plan. We urge the Congress not to enact major legislation such as H.R. 987 until the revision of the Tongass Forest Plan is completed. However, if the Congress is intent on enacting such legislation, it is essential that provisions requiring termination of the long-term timber contracts be deleted.

Sincerely,

Clayton Yeutter

Clayton Yeutter
Secretary

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

April 17 1989

Honorable E (Kika) de la Garza
Chairman, Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to your request for a report on H.R. 1368, a bill to "To amend the joint resolution entitled a 'Joint Resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest,' and for other purposes."

The Department of Agriculture opposes the enactment of H.R. 1368.

Section 2 would amend the "Joint Resolution to authorize the Secretary of Agriculture to sell timber within the Tongass National Forest" approved August 8, 1947 (Chapter 516, 61 Stat. 920), to require that the Secretary enter into negotiations with the holders of the Tongass long-term timber contracts in order to (1) bring planning and management practices into conformance with laws applicable to the National Forest System, (2) require that holders of long-term timber contracts pay stumpage rates comparable to those paid under other sales, (3) promote fair competition within the timber industry in Southeast Alaska, (4) prevent excessive timber harvesting and enhance fish and wildlife habitat, (5) bring administration of the long-term timber sale contracts into conformance with other timber sale contracts, and (6) require that the operating periods of the long-term contracts be integrated with the planning periods under the revised Tongass plan. Within 1 year of enactment, the Secretary would be required to report to Congress concerning the above negotiations.

Section 3 would (1) repeal section 705(a) of the Alaska National Interest Lands Conservation Act (ANILCA) which would make timber management programs on the Tongass National Forest subject to annual appropriations and delete the requirement to maintain the timber supply from the Tongass at a rate of 4.5 billion board feet per decade, (2) repeal section 705(d) of ANILCA which would make timber management subject to the marginal lands limitations of section 6(k) of the National Forest Management Act (NFMA), (3) amend section 706(a) of ANILCA relating to monitoring and reporting to congressional committees, (4) expand the scope of the report required by section 706(b) of ANILCA, and (5) require consultation with the Southeast Alaska commercial fishing industry.

Section 4 would require the Secretary to assess the extent to which planning and management of the Tongass has differed from that of other National Forests, and would require the Secretary to change management priorities on the Tongass to assure that greater emphasis is given to commercial fishing, recreation, and tourism.

We believe that a major change in the statutory direction for management of the Tongass National Forest is premature. Such considerations by the Congress would benefit from the information being gathered for the revision of the Tongass Land Management Plan which will be available in draft form later this year. New resource inventories for timber, soils, streams, wildlife, and fisheries have been or are being completed. New research results will also be incorporated. An Analysis of the Management Situation (AMS) will provide a useful tool in understanding the capability of the Tongass to produce multiple goods and services. The range of alternatives considered during the Tongass plan revision will not be constrained by current law.

While we recommend that action on H.R. 1368 be postponed pending completion of the revised plan, we do have a few specific comments. First, we believe that the basis for the finding in section 2(a) is subject to question. In regard to section 2(b), the Forest Service does not have the authority to unilaterally raise rates paid under the long-term contracts to make them equal to bid rates on new sale offerings. The requirements of this section would be the subject of negotiation with the Alaska Pulp Company and the Ketchikan Pulp Company. We do not object to that portion of section 3(a) which would repeal the special permanent appropriation for the Tongass timber program. Finally, Section 4 contains imprecise legal standards which might be difficult to define and could provide a basis for extensive litigation.

We strongly recommend that the land management planning process, which was established by Congress, be allowed to function without intervention. That process will generate the data needed to formulate recommendations regarding the need for new legislation. Upon completion of the revised plan, we may be able to support some of the features of H.R. 1368. Until then, any such legislation would preempt the planning process and thus be premature. For these reasons, we oppose enactment of H.R. 1368 and recommend that the Congress defer action until the revised Tongass National Forest Plan is complete.

The Office of Management and Budget advises that there is no objection to presentation of this report from the standpoint of the Administration's program.

Sincerely,

Clayton Yeutter
Secretary

Amendment to the Amendment to H.R. 987

Offered by Mr. Volkmer

Amend Section 102(b) by adding at the end the following new sentence:

"The provisions of this subsection shall be deemed to be in conformance with the contracts.".

AMENDMENT TO THE AMENDMENT TO H.R. 987

OFFERED BY MR. ~~[redacted]~~ Young OF ~~INDIANA~~ Alaska

Section 102 is amended by adding after subsection (b) the following:

"(c) Fisheries Protection.-- The Secretary of Agriculture shall maintain a buffer zone on each side of all anadromous fish streams ~~[redacted]~~ in the Tongass National Forest. Such buffer zone shall be a minimum width of 100 feet. Logging shall be prohibited within such buffer zone.".

Amendment to H.R. 987
Offered by Mr. Glickman of Kansas

Page 1, strike all of Section 101 and insert the following:

SECTION 101. TERMINATION OF TONGASS NATIONAL FOREST LONG-TERM TIMBER CONTRACTS TO BETTER ACHIEVE FOREST MANAGEMENT OBJECTIVES.

(a) Findings.--The Congress finds the following:

(1) Long-term timber contracts in Alaska antedate the Multiple-Use and Sustained-Yield Act of 1960, the Wilderness Act, the National Environmental Policy Act of 1969, and the National Forest Management Act of 1976.

(2) These contracts no longer further their original goals and their continued existence damages other Alaskan industries dependent on access to natural resources.

(3) These contracts have created a monopolistic situation and a barrier to free market competition.

(4) The existence of these contracts impairs the ability of the United States, the State of Alaska, and other responsible parties to properly manage nontimber resources in Alaska.

(5) The continued existence of these contracts constrains the ability of the United States Forest Service to manage the Tongass National Forest according to the same land management planning process and principles which guide the management of all other national forests throughout the United States.

(6) The termination of these contracts will not impede any timber operator from competing for timber supplies from

national forests located in Alaska.

(b) Termination.--Not later than January 1, 1990, the Secretary of Agriculture shall terminate the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and Alaska Pulp Corporation, and between the United States and Ketchikan Pulp Company, respectively, for the sale of timber on National Forest System lands in the State of Alaska.

(c) Compensation.--The United States shall pay just compensation for any additional costs, associated with the purchase of timber, incurred by the contract holders as a result of the termination of the contracts pursuant to subsection (b). Such compensation shall be paid to the extent or in such amounts as are provided by appropriation.

Brief Explanation

Mr. Glickman's Amendment

The amendment would require the Secretary of Agriculture to terminate the long-term timber contracts on National Forest System lands in Alaska.

The amendment would direct that compensation for the terminated contracts be established and provided by appropriation and would include additional costs associated with the pruchase of timber incurred as a result of the termination of such contracts.

PROPOSED REPORT LANGUAGE PERTAINING TO THE PREPARATION OF TIMBER FOR SALE FROM THE TONGASS NF

OFFERED BY MR. JONTZ

Section 102(a)

Sec. 3(a) would direct the Secretary to prepare sufficient timber for sale from the Tongass National Forest to meet projected market demand, up to 4.5 billion bd. ft. per decade, subject to provisions of the Forest and Rangeland Renewable Resources Planning Act, as amended, and the Multiple-Use Sustained-Yield Act of 1960.

It is the Committee's intent that timber sale levels from the Tongass National Forest would be developed as a part of the land management planning process in the same way that such determinations are made on other national forests. The timber sale level for the forest would be based upon projected market demand for the dependent forest products industry, the biological productivity of the forest, the quantity of lands suitable for timber production on the forest as determined in accordance with section 6(k) of the National Forest Management Act, multiple-use management goals and objectives, as well as other factors which are considered as a part of the land management planning process.

The 4.5 billion board foot measure per decade would not affect the planning process and does not represent the allowable sale quantity for the forests nor a predetermined timber sale level or target for the Tongass. Instead, the 4.5 billion bd. ft. measure represents a ceiling for timber harvest from the forest for the decade covered by the forests plan.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 21, 1989

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Hearing

met at 2:20 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of examining the Department of Agriculture's water quality initiative proposed in the Fiscal Year 1990 budget.

The following Members were present:

Mr. Brown	Mr. Roberts	Mr.
Mr. Stenholm	Mr. Grandy	Mr.
Mr. Olin	Mr. Walsh	Mr.
Mr. Jontz	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff Present

Vernie Hubert, Majority Associate Counsel
William A. Stiles, Jr., Subcommittee Staff Director
Rob Myers, Staff Scientist
John J. Aguirre, Minority Consultant
James R. Lyons, Staff Assistant
Jim Davis, Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

Dr. Charles E. Hess, Assistant Secretary for Science and Education, U.S. Department of Agriculture, Washington, DC

accompanied by:

Mr. Robert W. Long, Deputy Assistant Secretary for Science and Education, USDA

Mr. Peter Paterson, Water Quality Leader, Soil Conservation Service, USDA

Wednesday, June 21, 1989
Department Operations, Research, and
Foreign Agriculture Subcommittee
Public Hearing
Review of USDA's FY 1990 Water
Quality Initiative

Chairman Brown called the meeting to order and, after brief opening remarks, recognized Dr. Hess, the Assistant Secretary for Science and Education, USDA, for his prepared statement on the USDA's role in the water quality initiative proposed in the Fiscal Year 1990 budget. After completion of his prepared remarks, Dr. Hess, along with the two Department Officials who accompanied him, responded to questions from the Subcommittee members.

At 3:35 p.m., the Subcommittee was adjourned, subject to the call of the Chair.

Francie Monaghan
Staff Assistant

27-445 O - 90 - 15

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 22, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:10 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of continuing the Subcommittee's investigation into problems in rural America.

The following Members were present:

Mr.	English	Mr.	Gunderson
Mr.	Penny	Mr.	Grandy
Mr.	Stallings	Mr.	
Mr.	Harris	Mr.	
Mr.	Espy	Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	

Also Present

Mr. Bruce
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff Present

Fred Clark, Majority Associate Counsel
Bill Cherry, Subcommittee Staff Director
Dave Ebersole, Minority Consultant
Joe Dugan, Assistant Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

1. Mr. John Kelly, Supervisor, Essex County, New York, and Chairman, Agriculture and Rural Affairs Policy Steering Committee of the National Association of Counties (NACo), testifying on behalf of The National Association of Counties, Washington, DC

   accompanied by:
   Mr. Ralph Tabor, Legislative Director of NACo

2. Mr. David Senter, Washington Director, American Agriculture Movement, Washington, DC

3. Mr. Charles L. Frazier, National Farmers Organization, Washington, DC

4. Mr. B. Wayne Clark, President, Missouri Telephone Company, testifying on behalf of United States Telephone Association, Washington, DC

5. Mr. Bernard Simmons, Executive Director, Southwest Health Agency for Rural People, Tylertown, Mississippi, testifying on behalf of National Association of Community Health Centers, Inc., Washington, DC

6. Dr. David Chicoine, Head, Department of Agricultural Economics, University of Illinois, Urbana, IL

Thursday, June 22, 1989
Conservation, Credit, and Rural
Development Subcommittee
Public Hearing
Review of Rural Development

Chairman English called the meeting to order for the purpose of receiving further testimony on proposals to revitalize the rural areas of America. The witnesses listed on page two of these minutes were recognized for their prepared statements and were then questioned by Subcommittee Members.

During the proceedings, two recesses were taken, at 10:16 a.m. and 12:05 p.m., to enable Members to respond to recorded votes on the floor of the House. For a brief time, Congressman Harris shared the duties of the Chair.

Congressman Terry Bruce joined Subcommittee Members for the purpose of introducing Dr. David Chicoine from the Department of Agricultural Economics, at the University of Illinois at Urbana.

At 12:45 p.m., the Chairman announced that the Subcommittee would be in recess, subject to the call of the Chair.

Francie Monaghan

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 22, 1989

(Sub) Committee: Forests, Family Farms, and Energy, Committee on Agriculture; and National Parks and Public Lands, Committee on Interior and Insular Affairs -- Joint Public Hearing

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing to review management of old-growth forests of the Pacific Northwest

The following Members were present:

FFFE	NPPL	Members Also Present:
Mr. Volkmer	Mr. Vento	Mr. Bosco
Mr. Olin	Mr. Owens	Mr.
Mr. Jontz	Mr. DeFazio	Mr.
Mr. Johnson	Mr. McDermott	Mr.
Mr. Harris	Mr. Craig	Mr.
Mr. Morrison	Mr. Smith (Oreg.)	Mr.
Mr. Smith	Mr. Duncan	Mr.
Mr. Schuette	Mr. Thomas	Mr.
Mr. Herger	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Agriculture	Interior and Insular Affairs
Joe Muldoon	James Bradley
Alice Devine	Dale Crane
Tim DeCoster	Charlene Seamens
Allison Biggs	Nils Johnson
Glenda Temple	Kurt Christensen
Jim Lyons	

Witnesses:

1. Panel:

Mr. F. Dale Robertson, Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C.
Acc. by: Mr. George M. Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C.

Dr. Thomas A. Spies, Plant Ecologist, Pacific Northwest Forest and Range Experiment Station, Forest Service, U.S. Department of Agriculture, Corvallis, Oregon

Mr. Dean E. Stepanek, Assistant Director, Land and Renewable Resources, Bureau of Land Management, Department of the Interior, Washington, D.C.
Acc. by: Mr. Paul M. Vetterick, Associate State Director for Oregon and Washington, Bureau of Land Management, Department of the Interior, Portland, Oregon
Mr. Mel Berg, District Manager, Bureau of Land Management, Roseburg, Oregon

2. Hon. Douglas H. Bosco, Member of Congress from California

3. Panel:

Mr. R. Neil Sampson, Executive Vice President, American Forestry Association, Washington, D.C.

Mr. Pat McElroy, Department of Natural Resources, State of Washington, Olympia, Washington

Mr. Tom Franklin, Field Director, The Wildlife Society, Bethesda, Maryland

Thursday, June 22, 1989
Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture
and
Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs
Joint Public Hearing
Review of management of old-growth forests of the Pacific Northwest

Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture, called the joint public hearing to order for the purpose of continuing to review the management of the old-growth forests of the Pacific Northwest. Mr. Vento, Chairman of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs, and Mr. Morrison also made opening comments.

The witnesses listed on page 2 were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittees.

During the proceedings, recesses were taken at 10:45 a.m. and 12:15 p.m. to enable Members to respond to recorded votes in the House Democratic Caucus and on the Floor. At 1:50 p.m. the meeting was adjourned to reconvene, subject to the call of the respective chairs.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 27, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:05 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing rural development issues

The following Members were present:

Mr. English	Mr. Holloway	Mr.
Mr. Tallon	Mr.	Mr.
Mr. Penny	Mr.	Mr.
Mr. Stallings	Mr.	Mr.
Mr. Harris	Mr.	Mr.
Mr. Espy	Mr.	Mr.
Mr. Long	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Glenda Temple, Clerk
Joe Dugan, Assistant Press Secretary
Jim Lyons, Staff Assistant

Witnesses:

1. Mr. Terry Montgomery, President and Chief Executive Officer, Greater Minnesota Corporation, Minneapolis, Minnesota

2. Mr. Steven R. Meyer, Director of Governmental Affairs, National Association of Conservation Districts, Washington, D.C.

3. Mr. Leroy Watson, Legislative Representative, The National Grange, Washington, D.C.

4. Hon. Wally Sparby, State Representative from Minnesota, on behalf of the National Conference of State Legislatures, Washington, D.C.

5. Mr. Wilbur F. Hawkins, Executive Director, Lower Mississippi Delta Development Commission, Memphis, Tennessee
   Acc. by: Mr. Kevin A. Smith, Government Affairs Director, Delta Development Commission

6. Ms. Sylvia Boeder, Director, Section for Small or Rural Hospitals, Chicago, Illinois, on behalf of the American Hospital Association, Washington, D.C.

Tuesday, June 27, 1989
Subcommittee on Conservation,
Credit, and Rural
Development
Public Hearing
Rural Development

Chairman English called the meeting to order to continue reviewing rural development issues. Mr. English made opening remarks on the need to look into problems facing rural areas and possible solutions to benefit rural America.

The witnesses listed on page 2 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The following special introductions were made: Mr. Penny -- Mr. Sparby; Mr. Espy -- Mr. Hawkins and Mr. Smith.

At 12:10 p.m. the meeting was recessed to enable Members to respond to a recorded vote on the House floor. At 12:50 p.m. the meeting was adjourned, to reconvene on Wednesday, June 28, to discuss the futures industry investigation.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 27, 1989

(Sub) Committee: Cotton, Rice, and Sugar; and Wheat, Soybeans, and Feed Grains, Joint Public Hearing

met at 10:05 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the 1985 Food Security Act's crop and farm base provisions for the 1990 Farm Bill.

The following Members were present:

CRS	WSFG	
Mr. Huckaby	Mr. Glickman	Mr.
Mr. Tallon	Mr. Johnson	Mr.
Mr. Espy	Mr. English	Mr.
Mr. Stenholm	Mr. Volkmer	Mr.
Mr. Stallings	Mr. Penny	Mr.
Mr. Sarpalius	Mr. Sarpalius	Mr.
Mr. de la Garza	Mr. de la Garza	Mr.
Mr. ex officio	Mr. ex officio	Mr.
Mr. Stangeland	Mr. Marlenee	Mr.
Mr. Emerson	Mr. Stangeland	Mr.
Mr. Lewis	Mr. Roberts	Mr.
Mr. Combest	Mr. Emerson	Mr.
Mr. Herger	Mr. Smith	Mr.
Mr. Holloway		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Fred Clark, Majority Associate Council
Parks Shackelford, Subcommittee Consultant
Greg Frazier, Subcommittee Staff Director
Anne C. Keys, Staff Assistant
Clifford Humphrey, Minority Consultant
Michael Mishoe, Minority Consultant
Anita Brown, Staff Assistant
Howard Conley, Staff Economist
Jim Davis, Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

1. Panel
The Honorable Pat Roberts, Member of Congress from Kansas

The Honorable Charles Stenholm, Member of Congress from Texas

2. Mr. John Campbell, Deputy Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, DC

3. Panel
Dr. Martin E. Abel, President, Abel, Daft and Earley, Alexandria, Virginia

Dr. Ronald D. Knutson, Agricultural Economist, Agricultural and Food Policy Center, Texas A&M University, College Station, Texas

Dr. Abner W. Womack, Co-Director, Center for National Food and Agricultural Policy, University of Missouri, Columbia, Missouri

4. Panel
Mr. Carl Schwensen, Executive Vice President, National Association of Wheat Growers, Washington, DC

Mr. W. Bruce Heiden, President, National Cotton Council, Buckeye, Arizona

Mr. Steve Wentworth, President of the Board of Directors, National Corn Growers Association, Oreana, Illinois

Mr. John Denison, Legislative Group, U.S. Rice Producers, Iowa, Louisiana

Mr. Steve Yoder, Board Member, American Soybean Association, Altha, Florida

Mr. Floyd Anderson, President, National Sunflower Association, Bismarck, North Dakota

5. Panel
Mr. Grant B. Buntrock, Associate Director, National Farmers' Organization, Washington, DC

Mr. Howard Lyman, Legislative Analyst, testifying on behalf of the National Farmers Union, Washington, DC

Mr. Robert L. Nooter, Assistant Director for National Affairs, American Farm Bureau Federation, Washington, DC

Mr. David Senter, National Director, American Agriculture Movement, Washington, DC

Tuesday, June 27, 1989
Subcommittees on Cotton, Rice, and Sugar; and Wheat, Soybeans, and Feed Grains
Joint Public Hearing
Review of farm and crop base provisions for the 1990 Farm Bill.

Congressman Huckaby, Chairman of the Subcommittee on Cotton, Rice, and Sugar, called the meeting to order and, after a brief opening statement, recognized Congressman Glickman, Chairman of the Wheat, Soybeans, and Feed Grains Subcommittee, for his comments.

The scheduled witnesses were then recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members.

During the proceedings, one recess was taken, at 12:05 p.m., to enable Members to respond to a recorded vote on the floor of the House. The following special introduction was made: Congressman Lewis -- Mr. Yoder.

After brief closing remarks, Chairman Huckaby adjourned the meeting at 1:55 p.m., subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, June 27, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing and Business Meeting

met at 2:15 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing and considering H.R. 1472, a bill to establish the Grand Island National Recreational Area

The following Members were present:

Mr. Volkmer	Mr. Morrison	Mr.
Mr. Olin	Mr. Marlenee	Mr.
Mr. Jontz	Mr. Smith	Mr.
Mr. Johnson	Mr. Schuette	Mr.
Mr. de la Garza	Mr. Herger	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Vernie Hubert, Majority Associate Counsel
Joe Muldoon, Majority Assistant Counsel
Alice Devine, Minority Associate Counsel
John E. Hogan, Minority Counsel
Tim DeCoster, Subcommittee Staff Director
Allison Biggs, Minority Consultant
Glenda Temple, Clerk

Witnesses:

1. Mr. Larry Henson, Associate Deputy Chief, National Forest Systems, Forest Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Loren Woerpel, Lands Officer, Hiawatha National Forest, Forest Service

2. Ms. Madeline Fishel, Assistant Director of Federal Projects, The Trust for Public Land, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Dale E. Kildee, Member of Congress from Michigan

2. Hon. Harold L. Volkmer, Member of Congress from Missouri

3. Hon. Sid Morrison, Member of Congress from Washington

Tuesday, June 27, 1989
Subcommittee on Forests, Family Farms, and Energy
Public Hearing and Business Meeting
Grand Island National Recreational Area
H.R. 1472

Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy, called the meeting order for the purpose of reviewing and considering H.R. 1472, a bill to establish the Grand Island National Recreational Area. Mr. Volkmer and Mr. Morrison, the Ranking Minority Member of the Subcommittee, made opening comments.

The witnesses listed on page 2 were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

B U S I N E S S M E E T I N G

Action Taken:

-- By voice vote Morrison amendment to clarify membership of advisory commission agreed to.

-- By voice vote Marlenee amendment adding consultation with the State of Michigan adopted.

-- By voice vote H.R. 1472, as amended, ordered reported to the full Committee.

At 2:55 p.m. the Subcommittee resolved into a business meeting for the consideration of H.R. 1472, a bill to extend the boundaries of the Hiawatha National Forest to include the Grand Island National Recreation Area and provide that moneys from the land and water conservation fund would be available for acquisition of lands within the new National Recreation Area. See attached copy of bill, as reported by the Committee on Interior and Insular Affairs, brief explanation, and section-by-section analysis.

Tuesday, June 27, 1989
Subcommittee on Forests, Family Farms, and Energy
Public Hearing and Business Meeting
Grand Island National Recreational Area
H.R. 1472

Discussion occurred on the bill. Mr. Morrison offered an amendment, as suggested by the Department of Agriculture during its testimony. Section 8 would establish an advisory commission to advise the Secretary on the preparation of a management plan. Three members of the commission would be Forest Service employees. The Department asked that the Forest Supervisor of the Hiawatha National Forest be one of the employees, and that all three be ex officio, nonvoting members of the commission. By a voice vote the amendment was agreed to and staff was directed to write appropriate language.

Mr. Marlenee during the hearing had expressed concern that the Forest Service was not required to consult with the State of Michigan and offered the following:

> On page 8, section 5, after "Secretary" insert "in consultation with the State of Michigan".

By a voice vote the Marlenee amendment was adopted.

Mr. Morrison moved that H.R. 1472, as amended, be ordered reported to the full Committee. By a voice vote the motion was agreed to in the presence of a quorum.

At 3:00 p.m. the meeting was adjourned to reconvene, subject to the call of the chair.

Glenda Temple

Glenda Temple

H.R. 1472

AS REPORTED BY THE COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

SECTION 1. ESTABLISHMENT OF GRAND ISLAND NATIONAL RECREATION AREA.

In order to preserve and protect for present and future generations the outstanding resources and values of Grand Island in Lake Superior, Michigan, and for the purposes of providing for the conservation, protection, and enhancement of its scenery, recreation, fish and wildlife, vegetation, botany and historical and cultural resources, there is hereby established the Grand Island National Recreation Area (hereafter in this Act referred to as the "national recreation area"). These resources and values include but are not limited to cliffs, caves, beaches, forested appearance, natural biological diversity and features of early settlement.

SEC. 2. BOUNDARIES.

The national recreation area shall comprise all of the Grand Island in Lake Superior, Michigan, and all associated rocks, pinnacles, and islands and islets within one-quarter mile of the shore of Grand Island. The boundaries of the Hiawatha National Forest are hereby extended to include all of the lands within the national recreation area. All such extended boundaries shall be deemed boundaries in existence as of January 1, 1965, for the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601). All federally owned lands within the national recreation area on the date of enactment of this Act are

hereby components of the National Forest System and shall be administered by the Secretary of Agriculture as provided in this Act.

SEC. 3. ADMINISTRATION.

(a) Administration.--Subject to valid existing rights, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall administer the national recreation area in accordance with the laws, rules, and regulations applicable to the National Forest System in furtherance of the purposes for which the national recreation area was established.

(b) Special Management Requirements.--The national recreation area also shall be administered according to the following special management requirements:

(1) Subject to such terms and conditions as may be prescribed by the Secretary, including the protection of threatened and endangered species and the protection of other natural, cultural, and scenic values, owners of privately owned land and homes within the national recreation area shall be afforded access across National Forest System lands.

(2) Consistent with section 7 of this Act, and the purposes of this Act, the Secretary shall provide for and maintain traditional public access, including vehicular roads for general recreational activities such as camping,

hiking, hunting, fishing, and trapping.

(3) The Secretary shall permit the use of snowmobiles on Federal lands in the national recreation area in accordance with the rules and regulations of the National Forest System and consistent with the management plan developed pursuant to section 7 of this Act. Such use shall be regulated to protect the resources of the national recreation area in a way that minimizes the degradation of these resources.

(4) Timber management shall be utilized only as a tool to enhance public recreation, scenic quality, game and nongame wildlife species, and the protection and enhancement of threatened, endangered, or sensitive species. Trees damaged or downed due to fire, insects, disease, or blowdown may be utilized, salvaged, or removed from the recreation area as authorized by the Secretary to further the purposes of the national recreation area.

(5) The Secretary shall, after acquiring fee title to at least 10,000 acres of land on Grand Island, provide reasonable water transportation from the mainland to Grand Island. Transportation may be provided through concession, permit, or other means, and a reasonable charge may be imposed. Transportation shall be subject to reasonable regulation by the Secretary and shall not be required when the Secretary deems it to be unsafe because of factors such

as weather and water conditions.

(6) The Secretary shall provide through concession, permit, or other means docking and lodge facilities consistent with the management plan developed pursuant to section 7 of this Act.

(7) The Secretary shall take reasonable actions to provide for public health and safety and for the protection of the national recreation area in the event of fire or infestation of insects or disease.

(8) Under the authority of the Act of March 4, 1915, as amended (16 U.S.C. 497), the Secretary shall issue occupancy and use permits for any privately owned home as of the date of Federal acquisition of the land within the national recreation area on which the home is located. Any such permit shall be issued for an initial period of 20 years and shall be renewed thereafter for successive 20-year periods so long as the permittee is in compliance with the purposes of this Act, the terms of the permit, and other applicable rules and regulations. Any such permit shall be issued in accordance with the laws, rules, and regulations of the Secretary pertaining to the National Forest System, except that such permit shall be subject to the following special provisions:

(A) Such permit may only be issued to the owner of such home as of the date of Federal acquisition of the

property, such owner's spouse, the children and grandchildren of such owner and spouse, and their direct lineal descendants (natural or adopted offspring).

(B) Only noncommercial recreation occupancy may be permitted.

(C) The Secretary shall collect fees on an annual basis based on the fair market value of the occupancy permitted.

(D) The expansion, remodeling, or reconstruction of such homes shall be subject to approval of and regulation by the Secretary. No expansion, remodeling, or reconstruction may increase the height of structure or result in an increase of more than 25 percent of the sum of the exterior dimensions of a structure as it existed on the date of enactment of this Act. Any expansion, remodeling, or reconstruction shall be consistent with the criteria developed pursuant to section 7(b)(4) of this Act and shall be subject to such other terms and conditions as the Secretary may prescribe.

(E) Any such home may be purchased at the fair market value of the structure and improvements by the Secretary on a willing seller basis.

(F) The permit may be terminated at any time for

failure to comply with its term and conditions and applicable regulations without cost to the Federal Government in accordance with the permit.

(G) After termination of any such permit, if any improvements or property are not removed by their owner within one year of the termination, they shall become the property of the Federal Government.

(9) Solely for purposes of payments pursuant to section 6904 of title 31, United States Code, lands on Grand Island acquired by the United States after the date of enactment of this Act shall be considered to have been acquired for addition to a National Forest Wilderness Area (national forest portion of the National Wilderness Preservation System).

SEC. 4. ACQUISITION.

(a) General Authority.--The Secretary is authorized and directed to acquire by purchase, gift, exchange, or otherwise, lands, waters, structures, or interests therein, including scenic or other easements, within the boundaries of the national recreation area to further the purposes of this Act. The Secretary also is authorized and directed to acquire lands or structures by such means on the mainland to the extent necessary for access to and administrative facilities for the national recreation area. In acquiring lands or structures under this subsection, the Secretary is directed to give prompt and careful

consideration to any offer to sell land or structures made by an individual, organization, or any legal entity owning property within the boundaries of the national recreation area.

(b) Private Lands.--(1) An owner of unimproved real property within the national recreation area may construct recreational residences that are historically consistent with other structures within the national recreation area, as described by the management plan developed pursuant to section 7 of this Act.

(2) Any private owned lands, interests in lands, or structures within the national recreation area shall not be disposed of by donation, exchange, sale, or other conveyance without first being offered at no more than fair market value to the Secretary. The Secretary shall be given a period of 120 days to accept an offer and, after such offer is accepted, a period of 4 days after the end of the fiscal year following the fiscal year in which the offer was accepted to acquire such lands, interests in lands, or structures. No such lands, interests in lands, or structures shall be sold or conveyed at a price below the price at which they have been offered for sale to the Secretary, and if such lands, interest in lands, or structures are reoffered for sale or conveyance they shall first be reoffered to the Secretary, except that this subsection shall not apply to a change in ownership of a property within the immediate family of the owner of record on January 1, 1989. For the purposes of this subsection, the term "immediate family" means, with respect to

any such owner of record, the spouse, siblings, children (whether natural or adopted), and lineal descendants of that owner.

SEC. 5. FISH AND GAME.

(a) In General.--Nothing in this Act shall be construed as affecting the responsibilities of the State of Michigan with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping in any lands acquired and managed by the Secretary under this Act, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing or trapping shall be permitted for reasons of public safety, administration, the protection of nongame species and their habitats, or public use and enjoyment.

(b) Notice of Secretarial Action.--As soon as practicable after each case in which the Secretary exercises authority under subsection (a), the Secretary, in consultation with appropriate officials of the State of Michigan, shall take steps to notify area residents as to the nature of actions taken, and the location of zones designated and periods established, under subsection (a).

(c) Consultation.--Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect after consultation with the fish and wildlife agency of the State of Michigan.

SEC. 6. MINERALS.

Subject to valid existing rights, the lands within the

national recreation area are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing including all laws pertaining to geothermal leasing. Also subject to valid existing rights, the Secretary shall not allow any mineral development on federally owned land within the national recreation area, except that common varieties of mineral materials, such as stone, sand, and gravel, may be utilized only as authorized by the Secretary to the extent necessary for construction and maintenance of roads and facilities within the national recreation area.

SEC. 7. MANAGEMENT PLAN.

(a) Development.--After the Secretary acquires fee title to at least 10,000 acres of land on Grand Island, the Secretary, within 30 months, shall develop with public involvement a comprehensive management plan for the national recreation area which implements the provisions of this Act.

(b) Special Issues To Be Included.--The comprehensive management plan shall include, but not be limited to, the following issues:

(1) Public recreation, including consideration of a range of appropriate recreational opportunities consistent with the rustic, natural, and historic character of the island, including, but not limited to, a system of trails and campsites in conjunction with the lodge referred to in

paragraph (2) of this section.

(2) The feasibility of a concessionaire constructed, operated, and maintained rustic lodge and educational facility on no more than 55 acres located so as not to impair or alter existing scenic views or the existing tree line and forested appearance of Grand Island from any point within the boundaries of Pictured Rocks National Lakeshore. The plan shall address the economics of constructing, operating, and maintaining such a facility by a concessionaire or other entity; access by roads and waters; utilities; waste water treatment, garbage disposal, and other associated environmental impacts; management operations including construction, operation and maintenance; and the potential for permitted uses by government agencies, profit and nonprofit organizations, or individuals.

(3) Prescriptions concerning any management and harvest of timber, subject to section 3(b)(4) of this Act.

(4) General design criteria for new facilities or the improvement of existing facilities that are compatible with the rustic, natural, and historic character of the island and their topographic and geological location, and that do not impair scenic views from the Pictured Rocks National Lakeshore.

(5) Water transportation from the mainland to the

national recreation area by a concessionaire or other entity.

(6) The feasibility of concessionaire constructed, operated, and maintained docking facilities in the national recreation area and on the mainland.

(7) An inventory and assessment of existing traditional roads, the level of road use, access needs, and any vehicular regulation and management needed to protect the resources of the national recreation area while, at the same time, providing reasonable access to private property.

(c) Consultation.--In preparing the comprehensive management plan, the Secretary shall consult with the appropriate State and local government officials, provide for full public participation, and consider the views of all interested parties, organizations, and individuals.

SEC. 8. GRAND ISLAND ADVISORY COMMISSION.

(a) Establishment.--Subject to appointments as provided in subsection (b), there is established a Grand Island Advisory Commission (hereafter in this Act referred to as the "Commission") comprised of 12 members for the purpose of advising the Secretary on the preparation of the management plan which is provided for in section 7 of this Act.

(b) Appointment.--(1) Commission members shall be appointed by the Secretary as follows:

(A) Three members, who shall be employees of the Forest

Service.

(B) One member who shall be a resident of Munising, Michigan, who is not a Forest Service Employee.

(C) Two members who shall be recreational users of Grand Island who are not Forest Service employees.

(D) One member from nominations made by the Alger County Board of Commissioners who is a member of such board.

(E) One member from nominations made by the Alger County Economic Development Corporation who is a member of such corporation.

(F) One member from nominations made by the Grand Island Association who is a member of such association.

(G) One member from nominations made by the private landowners of Grand Island who is a private landowner on Grand Island.

(H) One member from nominations made by the Grand Island Township Board who is a member of such board.

(I) The Munising city manager, upon accepting the invitation of the Secretary.

(2) Any vacancy shall be filled in the same manner as the original appointment.

(c) Quorum.--A quorum shall be six members. The operations of the Commission shall not be impaired by the fact that a member has not been appointed as long as a quorum has been attained.

(d) Procedures.--The Commission shall elect a Chairman and

establish such rules and procedures as it deems necessary or desirable.

(e) Consultation.--The Secretary shall consult with the Commission on a periodic and regular basis with respect to the management plan.

(f) Pay.--(1) Members of the Commission who are not full-time officers or employees of the United States shall serve without pay.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(g) Proposals for Development of Non-Federal Land.--The Commission shall recommend proposals for non-Federal development on the 55 acres described in section 7(b)(2) of this Act. It shall submit any such proposals to the Secretary for approval, rejection, or revision. The Secretary shall include in the management plan a development proposal submitted by the Commission or arrived at by any other means available to the Secretary.

(h) Termination.--The Commission shall cease to exist on the date upon which the management plan is adopted.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) Acquisition of Lands.--There are hereby authorized to be appropriated an amount not to exceed $5,000,000 for the acquisition of land, interests in land, or structures within the

national recreation area and on the mainland as needed for access and administrative facilities.

(b) Other Purposes.--In addition to the amounts authorized to be appropriated under subsection (a), there are authorized to be appropriated not more than $5,000,000 for development to carry out the other purposes of this Act.

BRIEF EXPLANATION

H.R. 1472 as reported by the Committee on

Interior and Insular Affairs

H.R 1472 would establish a National Recreation Area on Grand Island in Lake Superior, Michigan. The bill would extend the boundaries of the Hiawatha National Forest to include the Grand Island National Recreation Area (NRA) and provide that moneys from the land and water conservation fund would be available for acquisition of lands within the new NRA.

The bill would authorize the Secretary of Agriculture to administer the NRA in accordance with the laws and regulations of the National Forest System and certain special management requirements, including access for land owners and the public, snowmobile use, general prohibitions on timber harvesting, transportation from the mainland, docking and lodge facilities, and public health and safety. The bill would also generally prohibit any new mining or mineral development on lands within the NRA.

The bill would authorize and direct the Secretary to acquire lands, waters, structures, easements or other property interests, within the boundaries of the NRA or on the mainland, to further the purposes of the bill or to provide necessary access. The bill also gives the Secretary a right of first refusal to purchase any privately owned lands, structures or interests therein within the NRA.

The bill would authorize the Secretary to designate zones and time periods within which no hunting, fishing, or trapping would be permitted.

The bill would require the Secretary to develop a comprehensive management plan (CMP) for the NRA within 30 months after acquiring title to at least 10,000 acres of land on Grand Island, and would establish a Grand Island Advisory Commission to advise the Secretary on the preparation of the CMP.

The bill would authorize appropriations of $5 million for acquisition of land, interests in land, or structures within the NRA and on the mainland and an additional $5 million for development to carry out the other purposes of the bill.

H.R. 1472

AS REPORTED BY THE COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

SECTION-BY-SECTION ANALYSIS

SECTION 1. -- ESTABLISHMENT OF GRAND ISLAND NATIONAL RECREATION AREA.

Section 1 establishes the Grand Island National Recreation Area (NRA) and lists the purposes for its establishment. These purposes are to preserve and protect the outstanding resources and values of the island and to conserve, protect and enhance the scenery, recreation, fish and wildlife, vegetation, botany and historical and cultural resources. The island's resources and values include, but are not limited to, cliffs, caves, beaches, forested appearance, natural biological diversity and features of early settlement.

SEC. 2. -- BOUNDARIES.

Section 2 defines the area to be included in the NRA. This area includes all of Grand Island plus all associated rocks, pinnacles, islands and islets within one-quarter mile of the shore of Grand Island. Section 2 also extends the boundaries of the Hiawatha National Forest to include all of the lands within the NRA and defines these extended boundaries as in existence as of January 1, 1965, for the purposes of section 7 of the Land and

Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9)[1]. Finally, section 2 designates all federally owned lands within the NRA as components of the National Forest System to be administered by the Secretary of Agriculture.[2]

SEC. 3. -- ADMINISTRATION.

Section 3(a) directs the Secretary, subject to valid existing rights, to administer the NRA in accordance with the laws, rules and regulations of the national forest system in furtherance of the purposes described in Section 1.

Section 3(b) directs the Secretary to administer the NRA according to the following special management requirements:

(1) Owners of private lands and homes within the NRA shall have access across National Forest System lands, subject to terms and conditions prescribed by the Secretary including those to protect threatened and endangered species and natural, cultural

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[1] Section 7 generally concerns the uses of funds from the land and water conservation fund. In this case, the reference is taken to be for acquisition within the boundaries of national forests. The fund consists of receipts from the disposal of surplus real property and related personal property under the Federal Property and Administrative Services Act of 1949, motorboat fuels tax, and where the annual income of the fund is less than $900,000,000, receipts under the Outer Continental Shelf Lands Act sufficient to bring the annual income of the fund up to that level.

[2] The Interior Committee report states that the Interior Committee intends that only those lands above the mean high water mark be included in the NRA and that submerged lands such as the Alger Underwater Preserve not be included.

and scenic values.[3]

(2) The Secretary shall provide for and maintain traditional public access, including vehicular roads for general recreational activities such as camping, hiking, hunting, fishing, and trapping in ways that are consistent with the purposes of the bill and the NRA management plan required by section 7.

(3) The Secretary shall permit the use of snowmobiles on Federal lands in the national recreation area. Their use must be consistent with the provisions of the NRA management plan, in accordance with the rules and regulations of the National Forest System, and regulated to protect the resources of the NRA and minimize degradation of those resources.

(4) Timber management shall be utilized only as a tool to enhance public recreation, scenic quality, game and nongame wildlife species, and the protection and enhancement of threatened, endangered or sensitive species. Trees damaged or downed by fire, insects, disease or wind may be utilized, salvaged or removed as authorized by the Secretary to further the

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[3] The Interior Committee report states that:
The Committee intends that access be given to those individuals who own their homes, but lease the lands on which their homes are located from the Forest Service, and to those inholders who own both their homes and their land. It is not the Committee's intent that the Forest Service be required to open roads needed for such access to the general public. The Committee intends that access for nonproperty owners should be governed by provisions in the NRA's management plan described in Section 7 and may or may not include the above access roads. The Committee also intends that property owners share in the maintenance of their access roads proportionately to their use of them.

purposes of the NRA.[4]

(5) Once the Secretary has acquired fee title to at least 10,000 acres of land on Grand Island, the Secretary shall provide reasonable water transportation for the public from the mainland to Grand Island. This transportation may be provided either through concession, permit, or other means, and a reasonable charge may be imposed. Such transportation shall be subject to reasonable regulation by the Secretary and shall not be required when the Secretary deems it to be unsafe because of factors such as weather and water conditions.[5]

(6) The Secretary shall provide docking and lodge facilities consistent with provisions in the NRA management plan developed pursuant to section 7, through concession, permit, or other means.[6]

(7) The Secretary shall take reasonable actions to provide for the health and safety of the public and to protect the NRA in

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[4] The Interior Committee report states that the Committee intends that this language preclude large commercial timber sales.

[5] The Interior Committee report states that the Committee intends that if a third party is not forthcoming that the Forest Service still provide this transportation even if it means that the Forest Service must own and operate the necessary boat or boats itself, and that the Committee further intends that this transportation generally be offered daily and include a published schedule available to visitors.

[6] The Interior Committee report states that the Committee intends that the Forest Service provide these facilities even if a third party is not forthcoming. If such is the case the Interior Committee intends that the Forest Service construct, maintain and operate these facilities itself.

the event of fire, insect infestation or disease.[7]

(8) The Secretary shall, under the authority of the Act of March 4, 1915 (16 U.S.C. 497)[8], issue occupancy and use permits to the owners of private homes who own their homes on the date that the federal government acquires the lands on which their homes are located. These permits shall be issued for an initial period of 20 years and shall be renewed thereafter for successive 20-year periods so long as the permittee is in compliance with the purposes of the bill, the terms of the permit, and other applicable rules and regulations. Any such permit shall be issued in accordance with the laws, rules, and regulations of the Secretary pertaining to the National Forest System, except that such permit shall be subject to the following special provisions:

(A) Such permit may only be issued to the owner of such home as of the date of Federal acquisition of the property, such owner's spouse, the children and grandchildren of such owner and spouse, and their direct lineal descendants (natural or adopted offspring).

(B) Only noncommercial recreation occupancy may be permitted.

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[7] The Interior Committee report states that the Committee urges that the Forest Service develop search and rescue plans for those who may be lost or injured in the NRA.

[8] This section generally authorizes the Secretary to permit the use and occupancy of land within the national forests. Different time period and acreage restrictions apply based on the purpose of the use and occupancy.

(C) The Secretary shall collect fees on an annual basis based on the fair market value of the occupancy permitted.

(D) The expansion, remodeling, or reconstruction of such homes shall be subject to approval of and regulation by the Secretary. No expansion, remodeling, or reconstruction may increase the height of a structure or result in an increase of more than 25 percent of the sum of the exterior dimensions of a structure as it existed on the date of enactment of the bill. Any expansion, remodeling, or reconstruction shall be consistent with the criteria developed pursuant to section 7(b)(4) of the bill and shall be subject to such other terms and conditions as the Secretary may prescribe.

(E) Any such home may be purchased at the fair market value of the structure and improvements by the Secretary on a willing seller basis.

(F) The permit may be terminated at any time for failure to comply with its terms and conditions and applicable regulations without cost to the Federal Government in accordance with the permit.

(G) After termination of any such permit, if any improvements or property are not removed by their owner within one year of the termination, they shall become the

property of the Federal Government.[9]

(9) Solely for purposes of payments pursuant to section 6904 of title 31, United States Code[10], lands on Grand Island acquired by the United States after the date of enactment of the bill shall be considered to have been acquired for addition to a National Forest Wilderness Area (national forest portion of the National Wilderness Preservation System).[11]

SEC. 4. -- ACQUISITION.

Section 4(a) authorizes and directs the Secretary to acquire lands, waters, structures or interests therein within the boundaries of the NRA by purchase, gift, exchange or otherwise.

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[9] The Interior Committee report states that the Committee intends that the provisions of this paragraph allow the Forest Service to revoke or not to reissue such permits when permittees violate their terms and conditions. When permittees are in compliance, the Interior Committee expects that the Forest Service would renew their permits.

[10] This section provides generally for payments by the Secretary of the Interior to units of general local government, for the 5 fiscal years after the fiscal year in which the federal government acquires an interest in land located within the jurisdiction of such local government.

[11] According to the Interior Committee, this section applies a special provision of the payment in lieu of taxes (PILT) law to the lands acquired under this Act. The language allows Alger County to receive an extra PILT payment for 5 years to compensate for loss of property tax revenue caused by the bill. This extra PILT payment normally applies to private lands that are added to national park units or national forest wilderness areas. Because adding lands to the Grand Island National Recreation Area is a similar action with similar effects on local tax revenues, the Committee believes that applying this provision of the PILT law to Grand Island is appropriate. After five years, the County would receive the normal PILT payment that is applied to national forest lands.

It further authorizes and directs the Secretary to acquire lands or structures on the mainland to the extent necessary for access to and administrative facilities for the NRA. The Secretary also is required to consider promptly and carefully any offers to sell land or structures within the NRA.[13]

Section 4(b) states that owners of unimproved property within the NRA may construct residences that are recreational and that are consistent historically with other structures within the NRA as described by the NRA management plan. It further states that the Secretary will have the right of first refusal before lands, interests in lands or structures within the NRA are conveyed. They first must be offered to the Secretary at not more than fair market value. The Secretary has 120 days to

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[13] The Interior Committee report states that the Committee on Interior intends that condemnation of fee title be used only to abate actual or threatened private land uses which are inconsistent with and detract from the purposes of the bill and the NRA management plan. The Committee does not intend by the above statement that the use of condemnation to clear title, acquire scenic easements and necessary rights of way be restricted beyond policies normally followed by the agency. However, any acquisition of a scenic easement should generally permit regular uses of the property existing as of January 1, 1989.

The Committee feels that condemnation is inappropriate if: (1) the lands or structures are being used in the same manner and for the same purpose as used on January 1, 1989; or (2) structures are destroyed and subsequently rebuilt in substantially the same size, materials and location as previously existed; or (3) the lands are improved by construction so long as improvements do not exceed the height of the roofs of existing buildings, do not increase the sum of the exterior dimensions of existing buildings by 25% over that existing on January 1, 1989, and are constructed of natural materials (as deemed by the Secretary as consistent with the colors and materials used elsewhere in the national recreation area).

accept such an offer and, if accepted, 45 days after the end of the fiscal year following the fiscal year in which the offer was made to complete the acquisition. The subsection prohibits lands, interests in lands or structures from being sold or conveyed to another party for less than the price they were offered to the Secretary. Whenever they are reoffered for sale or conveyance they must first be reoffered to the Secretary. The subsection makes an exception to these sale and conveyance restrictions for changes in ownership within the immediate family of the owner, consisting of such owner's spouse, siblings, natural or adopted children and lineal descendants.[13]

SEC. 5. -- FISH AND GAME.

Section 5(a) states that the bill will not affect the responsibilities of the State of Michigan regarding fish and wildlife. However, the Secretary is authorized to designate zones closed to hunting, fishing or trapping for public safety, administration, protection of nongame species and habitat or public use and enjoyment.

Section 5(b) requires the Secretary, in consultation with appropriate state officials, to notify area residents, as soon as practicable after each case in which the Secretary exercises the authority under subsection (a), as to the nature of the action

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[13] The Interior Committee report states that the Committee on Interior intends that if the Secretary does not exercise the right of first refusal for unimproved real property that any new owner would also be allowed to construct a residence consistent with the provisions of this subsection.

taken, the locations of zones designated, and the periods established.

Section 5(c) requires the Secretary to consult with the State's fish and wildlife agency before putting into effect any regulations resulting from this section.

SEC. 6. -- MINERALS.

Section 6 withdraws the NRA from any mining activity except for valid existing rights and common materials such as sand, stone, and gravel needed for NRA roads and facilities.

SEC. 7. -- MANAGEMENT PLAN.

Section 7(a) directs the Secretary to develop a comprehensive management plan (CMP) for the NRA within 30 months after acquiring fee title to at least 10,000 acres of land on Grand Island.

Section 7(b) directs that the provisions of the comprehensive management plan shall include, but not be limited to, issues of --

(1) public recreation;

(2) the feasibility of a concessionaire to construct and operate a lodge and educational facility limited to no more than 55 acres of land;

(3) timber harvest prescriptions;

(4) design criteria for facilities;

(5) transportation to the NRA from the mainland;

(6) the feasibility of concessionaire docking facilities;

and

(7) an inventory and assessment of roads.

Section 7(c) requires the Secretary to consult with the appropriate State and local government officials and provide for full public participation in preparing the plan.

SEC. 8. -- GRAND ISLAND ADVISORY COMMISSION.

Section 8(a) establishes the Grand Island Advisory Commission for the purpose of advising the Secretary on the preparation of the NRA management plan.[14]

Section 8(b) directs the Secretary on how to appoint the 12 members of the Commission and how to fill vacancies.

Section 8(c) establishes six members as a commission quorum and allows the Commission to operate if a quorum is present even if some members have not been appointed.

Section 8(d) directs the Commission to elect a Chairman and to establish rules and procedures.

Section 8(e) directs the Secretary to consult with the Commission on a periodic and regular basis with respect to the management plan.

Section 8(f) requires members of the Commission who are not federal employees to serve without pay. It further stipulates that members who are full-time federal employees will receive no additional pay solely because of their Commission

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[14] The Interior Committee report states that the Committee on Interior intends that the Commission be purely advisory and that its recommendations not be binding on the Secretary.

responsibilities.

Section 8(g) directs the Commission to recommend proposals for non-federal development on the 55 acres earmarked in Section 7 for a lodge and education facility. The Secretary must include in the NRA management plan a development proposal for such a facility; however, it is not required that this proposal be one of the proposals recommended by the Commission.[15]

Section 8(h) terminates the Commission when the final NRA management plan is adopted.

SEC. 9. -- AUTHORIZATION OF APPROPRIATIONS.

Section (9)(a) authorizes $5 million to be appropriated for the acquisition of land, interest in land or structures within the NRA and on the mainland as needed for access and administrative facilities.

Section 9(b) authorizes an additional $5 million to be appropriated for development to carry out the other purposes of the bill.[16]

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[15] The Interior Committee report states that the Committee intends for the Commission to provide recommendations on other parts of the plan as well.

[16] The Interior Committee report states that the Committee on Interior does not intend for operation costs to be limited to these amounts.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 28, 1989

~~(Sub)~~ Committee: Full

Public Hearing

met at 9:35 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing issues relating to formulation of the 1990 farm bill

The following Members were present:

Mr.	de la Garza	Mr.	Espy	Mr.	Madigan
Mr.	English	Mr.	Sarpalius	Mr.	Coleman
Mr.	Huckaby	Mr.	Long	Mr.	Marlenee
Mr.	Glickman	Mr.	Lancaster	Mr.	Hopkins
Mr.	Stenholm	Mr.		Mr.	Roberts
Mr.	Volkmer	Mr.		Mr.	Gunderson
Mr.	Hatcher	Mr.		Mr.	Lewis
Mr.	Tallon	Mr.		Mr.	Smith
Mr.	Olin	Mr.		Mr.	Combest
Mr.	Penny	Mr.		Mr.	Schuette
Mr.	Stallings	Mr.		Mr.	Grandy
Mr.	Jontz	Mr.		Mr.	Herger
Mr.	Campbell	Mr.		Mr.	Holloway
				Mr.	Walsh
				Mr.	Grant
				Mr.	
				Mr.	

Staff present:
Bert R. Peña, Staff Director
John E. Hogan, Minority Counsel
Joe Muldoon, Majority Assistant Counsel
Alice Devine, Minority Associate Counsel
Howard Conley, Staff Economist
Jim Davis, Press Secretary
Joe Dugan, Assistant Press Secretary
Charles Hilty, Minority Staff Director
Tom Lederer, Staff Assistant
Jim Lyons, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director
Glenda Temple, Clerk

Witnesses:

1. Hon. Lynn Martin, Member of Congress from Illinois
2. Hon. Richard H. Lehman, Member of Congress from California
3. Hon. Toby Roth, Member of Congress from Wisconsin
4. Hon. Virginia Smith, Member of Congress from Nebraska
5. Hon. Jim Slattery, Member of Congress from Kansas
6. Hon. Byron L. Dorgan, Member of Congress from North Dakota
7. Hon. Cliff Stearns, Member of Congress from Florida
8. Hon. Lindsay Thomas, Member of Congress from Georgia
9. Hon. Robert W. Kastenmeier, Member of Congress from Wisconsin
10. Panel:

    Hon. George A. Sinner, Governor, State of North Dakota, Bismarck, North Dakota

    Hon. Mike Hayden, Governor, State of Kansas, Topeka, Kansas
11. Hon. Doug Bereuter, Member of Congress from Nebraska

Statements Submitted for the Record:

1. Hon. E (Kika) de la Garza, Member of Congress from Texas
2. Hon. Larry Combest, Member of Congress from Texas
3. Hon. Ron Marlenee, Member of Congress from Montana
4. Hon. Bill Schuette, Member of Congress from Michigan
5. Hon. David R. Obey, Member of Congress from Wisconsin
6. Mr. Steve McCoy, President, North American Export Grain Association, Washington, D.C.
7. Mr. Dan Logan, cotton producer, Gilliam, Louisiana, on behalf of the National Cotton Council
8. Mr. Peter E. Hirschfeld, cotton exporter, Dallas, Texas, on behalf of the National Cotton Council
9. Mr. John G. Reed, Jr., Export Processing Industry Coalition, Washington, D.C.

Wednesday, June 28, 1989
Full Committee
Public Hearing
Review of issues relating to
formulation of the 1990
farm bill

Statements Submitted for the Record Continued:

10. Mr. Donald Zaunbrecher, Chairman, Louisiana Farm Bureau Federation Soybean Advisory Committee, New Roads, Louisiana

Chairman de la Garza called the meeting to order for the purpose of receiving testimony from Members of Congress and Governors on issues and concerns that will be considered in drafting the 1990 farm bill. Mr. Madigan, the Ranking Minority Member of the Committee, also made opening comments.

The witnesses on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Committee.

Mr. Stenholm assisted with the chairing responsibilities. The following special introductions were made: Mr. Roberts -- Governor Hayden; Mr. de la Garza -- a group of foreign visitors sponsored by the Office of International Visitors of the U.S. Information Agency (European Regional Group Project) on agricultural issues in the United States. The visitors represented Switzerland, United Kingdom, Spain, Sweden, Netherlands, Portugal, Italy, Netherlands, France, Ireland, Czechoslovakia, Denmark, Belgium, and Canada.

Mr. de la Garza asked unanimous consent to submit testimony from witnesses that were scheduled to testify at the June 23rd Committee field hearing in New Orleans which was cancelled due to the consideration of the Dire Emergency Supplemental Bill on the House floor. There was no objection, and the testimony is to be inserted at the end of today's transcript.

During the proceedings recesses were taken at 10:10 a.m., 10:35 a.m., 11:25 a.m. and 2:00 p.m. to enable Members to respond to recorded votes on the House floor. At 3:20 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, June 28, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 2:15 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of briefing on futures industry investigation

The following Members were present:

Mr. English	Mr. Coleman	Mr.
Mr. Penny	Mr. Grandy	Mr.
Mr. Harris	Mr.	Mr.
Ms. Long	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
John Hogan, Minority Counsel
Fred Clark, Majority Associate Counsel
Grace McGovern, Staff Assistant

Witnesses:

1. Mr. James E. McDonald, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, House Committee on Agriculture

2. Mr. David P. Tarosky, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, House Committee on Agriculture

3. Ms. Dorothy LaValle, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, House Committee on Agriculture

4. Ms. Gwenetta Blackwell, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, House Committee on Agriculture

5. Mr. Chris Vail, Inquiry Staff for the Conservation, Credit, and Rural Development Subcommittee, House Committee on Agriculture

Wednesday, June 28, 1989
Subcommittee on Conservation,
Credit, and Rural Development
Public Hearing
Briefing on futures industry
investigation

Chairman English called the hearing to order for the purpose of briefing on futures industry investigation. Chairman English made an opening statement. The witnesses listed on page 2 of these minutes then gave their testimonies, and were questioned by the Members of the Subcommittee.

At 3:30 p.m. the meeting was adjourned, subject to the call of the chair.

Grace McGovern

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, June 29, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:10 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of continuing to review rural development issues

The following Members were present:

Mr. English	Mr. Coleman	Mr.
Mr. Tallon	Mr. Grandy	Mr.
Mr. Penny	Mr. Holloway	Mr.
Mr. Nagle	Mr.	Mr.
Mr. Harris	Mr.	Mr.
Mr. Espy	Mr.	Mr.
Ms. Long	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Bert R. Peña, Staff Director
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk
Jim Davis, Press Secretary
Jim Lyons, Staff Assistant

Witnesses:

1. Hon. E. Thomas Coleman, Member of Congress from Missouri

2. Dr. T. Reginald Harris of Shelby, North Carolina, on behalf of the American Medical Association, Chicago, Illinois
   Acc. by: Mr. David L. Heidorn, Association's Department of Federal Legislation, Washington, D.C.

3. Mr. M. Rudy Groomes, President, Orangeburg-Calhoun Technical College, Orangeburg, South Carolina, and Member, Board of Directors, National Association of Regional Councils, Washington, D.C.

4. Mr. Michael R. Wenger, States' Washington Representative, Appalachian Regional Commission, Washington, D.C.

5. Mr. Lawrence M. Gressette, Jr., President, SCANA Corporation, Columbia, South Carolina, on behalf of Edison Electric Institute, Washington, D.C.

6. Mr. Jack C. Keen, President, National Rural Telecom Association, Washington, D.C., and Chairman of the Board, Western New Mexico Telephone Company, Silver City, New Mexico

7. Mr. Raymond C. Scheppach, Executive Director, National Governors' Association, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Fred Grandy, Member of Congress from Iowa

2. Mr. Eugene Severens, Center for Rural Affairs, Walthill, Nebraska

Thursday, June 29, 1989
Subcommittee on Conservation,
Credit, and Rural
Development
Public Hearing
Rural Development

Chairman English called the meeting to order to continue reviewing rural development issues. Mr. English made opening comments on the Subcommittee's broadly based hearings and how to impede the massive outward migration from rural areas to the cities with the limited funds available.

The witnesses listed on page 2 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The following special introductions were made: Mr. Tallon -- Messrs. Groomes and Gressette.

During the proceedings recesses were taken at 12:05 p.m. and 1:55 p.m. to enable Members to respond to recorded votes on the House floor. At 2:35 p.m. the meeting was adjourned, to reconvene subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Friday, June 30, 1989

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Field Hearing

met at 1:00 p.m. o'clock, in ~~Room~~ Wells Fine Arts Center Auditorium, Tarleton State University, Stephenville, Texas

for the purpose of reviewing the impact of dairy production practices on the area's water quality.

The following Members were present:

	Also Present	
Mr. Brown	Mr. Stangeland	Mr.
Mr. Stenholm	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
William A. Stiles, Jr., Subcommittee Staff Director
Dan Waggoner, Subcommittee Staff Director
Joe Muldoon, Majority Assistant Counsel

Witnesses:

1. Panel

   Mr. Clyde Bohmfalk, Director, Water Quality Division, Texas Water Commission, Austin, TX

   Mr. Harry W. Oneth, State Conservationist, Soil Conservation Service, U.S. Department of Agriculture, Temple, TX

2. Panel

   Dr. John M. Sweeten, Extension Agricultural Engineer, Texas A&M University, College Station, TX

   Mr. Glenn G. Draper, Draper Engineering Inc., Dallas, TX

3. Panel

   Mr. Robert Traweek, Dairy Producer from Dublin, TX, testifying on behalf of the Associated Milk Producers, Inc., San Antonio, TX

   Mr. Robert Turner, Vice President, Texas Farm Bureau, Waco, TX

   Mr. W.L. Felts, area resident, Dublin, TX

   Mrs. Carmen Anderson, area resident, Dublin, TX

Friday, June 30, 1989
Subcommittee on Department Operations, Research,
and Foreign Agriculture
Public Field Hearing
Review of dairy production and water quality
Stephenville, Texas

Subcommittee Chairman George E. Brown, Jr. called the hearing to order and, after a brief opening statement, recognized Congressmen Stenholm and Stangeland for their opening remarks.

The scheduled witnesses were then called forward for their prepared statements. Following their testimony, the witnesses were questioned by the members.

After brief closing remarks, during which Congressmen Brown and Stangeland thanked the people of Stephenville for their hospitality, Congressman Brown turned the chair over to Congressman Stenholm who finished questioning the last panel of witnesses. After that panel was excused, the hearing was adjourned at 4:05 p.m. and an informal community meeting continued until 5:20 p.m.

William A. Stiles, Jr.

William A. Stiles, Jr.
Staff Director

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, July 11, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 1:30 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the Minnesota Family Investment Plan

The following Members were present:

Mr.	Hatcher, Chrm.	Mr.	Emerson	Mr.
Mr.	Staggers	Mr.	Lewis	Mr.
Mr.	de la Garza	Mr.		Mr.
Mr.	ex officio	Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
				Mr.
				Mr.
				Mr.
				Mr.

Staff present:

Julia Paradis, Subcommittee Staff Director
Dean Mitchell, Staff Assistant
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk
Anita Brown, Staff Assistant

Witnesses:

1. Hon. Timothy J. Penny, Member of Congress from Minnesota

2. Mr. G. Scott Dunn, Acting Administrator, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C.

3. Mr. John Petraborg, Assistant Commissioner, Family Support Programs, Department of Human Services, State of Minnesota, St. Paul, Minnesota

4. Mr. Robert J. Fersh, Executive Director, Food Research and Action Center, Washington, D.C.
   Acc. by: Mr. David A. Super, Staff Attorney and Policy Analyst

Statements Submitted for the Record:

1. Hon. Charles Hatcher, Member of Congress from Georgia

2. Hon. Bill Emerson, Member of Congress from Missouri

3. Mr. Robert Greenstein, Executive Director, Center on Budget and Policy Priorities, Washington, D.C.

Tuesday, July 11, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Public Hearing
Minnesota Family Investment
Plan

Chairman Hatcher called the meeting to order and made brief opening comments on the welfare reform proposal of the State of Minnesota--the Minnesota family investment plan. Mr. Emerson, the Ranking Minority Member of the Subcommittee, also made opening remarks on the proposal of the State of Minnesota to simplify and coordinate assistance programs for needy families.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 2:30 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, July 12, 1989

(Sub) Committee: Full

Public Hearing

met at 9:35 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of continuing to review issues relating to formulation of the 1990 farm bill

The following Members were present:

Mr. de la Garza	Mr. Johnson	Mr. Madigan
Mr. Brown	Mr. Harris	Mr. Coleman
Mr. Rose	Mr. Campbell	Mr. Marlenee
Mr. English	Mr. Espy	Mr. Hopkins
Mr. Huckaby	Mr. Sarpalius	Mr. Stangeland
Mr. Glickman	Ms. Long	Mr. Roberts
Mr. Stenholm	Mr. Dyson	Mr. Emerson
Mr. Volkmer	Mr. Lancaster	Mr. Morrison
Mr. Hatcher	Mr.	Mr. Gunderson
Mr. Olin	Mr.	Mr. Smith
Mr. Penny	Mr.	Mr. Combest
Mr. Stallings	Mr.	Mr. Schuette
Mr. Jontz	Mr.	Mr. Grandy
		Mr. Herger
		Mr. Walsh
		Mr. Grant
		Mr.

Staff present:

Bert R. Peña, Staff Director
Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Jim Davis, Press Secretary
Joe Dugan, Assistant Press Secretary
Glenda Temple, Clerk
Anita Brown, Staff Assistant
Charles Hilty, Minority Staff Director
Tom Lederer, Staff Assistant
Francie Monaghan, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

1. Panel:

Mr. Dean Kleckner, President, American Farm Bureau Federation, Rudd, Iowa

Mr. Leland Swenson, President, National Farmers Union, Denver, Colorado

Mr. Harvey Joe Sanner, President, American Agriculture Movement, Inc., Des Arc, Arkansas

Mr. Kenneth Stremlau, Illinois State President, National Farmers Organization, Mendota, Illinois

2. Panel:

Mr. Robert E. Barrow, Master, The National Grange, Swansea, Massachusetts
Acc. by: Mr. Robert Frederick, Legislative Director, The National Grange, Washington, D.C.

Ms. Helen Waller, Chair, Agriculture Policy Committee, National Save the Family Farm Coalition, Circle, Montana

Mr. Chuck Hassebrook, Center for Rural Affairs, Walthill, Nebraska, representing the Sustainable Agriculture Coalition

Mrs. Alice Parker, National President, Women Involved in Farm Economics (WIFE), Royal City, Washington

3. Panel:

Mr. James Lee Adams, Jr., President, American Soybean Association, Camilla, Georgia

Mr. Reggie Wyckoff, President, National Association of Wheat Growers, Genoa, Colorado

Mr. Jack Kintzle, Vice President, Government Relations, National Corn Growers Association, Coggon, Iowa

Mr. Stewart E. Jessup, Chairman, U.S. Rice Producers' Legislative Group, Stuttgart, Arkansas

4. Panel:

Mr. W. Bruce Heiden, President, National Cotton Council of America, Buckeye, Arizona

Mr. Wilbur Gamble, representing the National Peanut Growers Group, Dawson, Georgia

Wednesday, July 12, 1989
Full Committee
Public Hearing
Review issues relating to
formulation of 1990 farm bill

Panel 4 Continued:

Mr. Craig Anderson, representing the American Sugarbeet Growers Association and the U.S. Beet Sugar Association, Lamont, Colorado

Mr. Jack Nelson, President, Rio Grande Valley Sugar Growers, Inc., Santa Rosa, Texas
Acc. by: Mr. Jerry McKee, American Sugar Cane League of the U.S.A., Thibodaux, Louisiana

5. Panel:

Mr. Carl L. King, Chairman, American Corn Growers Association, Dimmit, Texas

Mr. John Bollingberg, American Oat Association, Brenen, North Dakota

Mr. Richard H. Perry, Vice President for Legislation, National Grain Sorghum Producers Association, Robstown, Texas
Acc. by: Mr. Elbert Harp, National Grain Sorghum Producers Association

Mr. Wayne A. Boutwell, President, National Council of Farmer Cooperatives, Washington, D.C.

Mr. Carroll Brunthaver, Executive Committee Member, National Grain Trade Council, Memphis, Tennessee

6. Panel:

Mr. Dan Koons, Chairman of Agriculture Policy Committee, National Cattlemen's Association, Shirley, Illinois

Mr. James P. (Tom) Camerlo, President, National Milk Producers Federation, Florence, Colorado

Mr. Don Gingrich, President, National Pork Producers Council, Parnell, Iowa

Wednesday, July 12, 1989
Full Committee
Public Hearing
Review issues relating to
formulation of 1990 farm bill

Witnesses Continued:

7. Panel:

Mr. Richard Adee, President, American Honey Producers' Association, Bruce, South Dakota

Mr. Binford Weaver, Member, Legislative Committee, American Beekeeping Federation, Inc., Navasota, Texas

Mr. Brian J. May, Executive Director, Mohair Council of America, San Angelo, Texas

Mr. Pierce Miller, American Sheep Industry Association, San Angelo, Texas

Statements Submitted for the Record:

1. Hon. Larry Combest, Member of Congress from Texas

2. Mr. James Graugnard, President, Louisiana Farm Bureau Federation, St. James, Louisiana

Chairman de la Garza called the meeting to order for the purpose of continuing to receive testimony on issues and concerns that will be considered in drafting the 1990 farm bill. Mr. de la Garza made opening comments before recognizing the agricultural organizations represented.

The witnesses on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Committee.

Mr. Stenholm and Mr. Brown assisted with the chairing responsibilities. The following special introductions were made: Mr. de la Garza -- Ms. Waller and Mr. Nelson; Mr. Rose -- Mr. Gamble. During the proceedings recesses were taken at 1:30 p.m., 3:15 p.m., and 3:50 p.m. to enable Members to respond to recorded votes on the House floor. At 4:45 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, July 13, 1989

(~~XXX~~ Sub) Committee: Full

Public Hearing and Business Meeting

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing issues relating to formulation of the 1990 farm bill; and considering H.R. 1472, to establish the Grand Island National Recreation Area in Michigan, H.R. 2799, to permit alternate crops on permitted acreage, and reconciliation package

The following Members were present:

Mr. de la Garza
Mr. Brown
Mr. Rose
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Tallon
Mr. Staggers
Mr. Olin
Mr. Penny

Mr. Stallings
Mr. Nagle
Mr. Jontz
Mr. Johnson
Mr. Harris
Mr. Campbell
Mr. Espy
Mr. Sarpalius
Mr. Long
Mr. Dyson
Mr. Lancaster
Mr.
Mr.

Mr. Madigan
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr. Grandy
Mr. Herger
Mr. Holloway
Mr.
Mr.

Staff present:

Bert R. Peña
Dan Brinza
John E. Hogan
Vernie Hubert
Joe Muldoon
Alice Devine
Fred Clark
Glenda Temple

Joe Dugan
Tim DeCoster
Allison Biggs
Greg Frazier
Cliff Humphrey
Tom Lederer
Jim Lyons
Parks Shackelford

Mike Mishoe
Francie Monaghan
Charles Hilty

Witnesses:

1. Panel:

Mr. Steve McCoy, President, North American Export Grain Association, Washington, D.C.
Acc. by: Mr. Karl Schlunk, Toepfer International, New York, New York
Mr. John Laesch, Continental Grain, New York, New York

Mr. Philip Johnston, Executive Director, CARE, representing the Coalition for Food Aid Policy, Washington, D.C.

Ms. Carol Brookins, President, World Perspectives, Inc., Washington, D.C.

2. Panel:

Mr. Bob Bergland, Executive Vice President, National Rural Electric Cooperative Association, Washington, D.C.

Mr. Benjamin A. Jones, Associate Director, Agricultural Experiment Station, University of Illinois, representing the National Association of State Universities and Land-Grant Colleges, Urbana, Illinois

Mr. Robert Greenstein, Director, Center on Budget and Policy Priorities, Washington, D.C.

Ms. Ellen Haas, Executive Director, Public Voice for Food and Health Policy, Washington, D.C.

3. Panel:

Mr. Ralph G. Grossi, President, American Farmland Trust, Washington, D.C.

Ms. Maureen K. Hinkle, Director of Agricultural Policy, National Audubon Society, Washington, D.C.

Mr. Kenneth A. Cook, Vice President for Policy, Center for Resource Economics, Washington, D.C.

Mr. Steven R. Meyer, Director of Governmental Affairs, National Association of Conservation Districts, Washington, D.C.

4. Panel:

Mr. George D. Lapointe, Legislative Counsel, International Association of Fish and Wildlife Agencies, Washington, D.C.

Ms. Janice L. Goldman-Carter, Counsel, Fisheries and Wildlife Division, National Wildlife Federation, Washington, D.C.

Thursday, July 13, 1989
Full Committee
Public Hearing and Business Meeting
Issues relating to formulation of 1990 farm bill; Grand Island National Recreation Area - H.R. 1472; alternate crops on permitted acreage - H.R. 2799; reconciliation

Panel 4 Continued:

Ms. Joan I. Nassauer, Professor, Department of Landscape Architecture, University of Minnesota, representing the American Society of Landscape Architects, St. Paul, Minnesota

5. Panel:

Ms. Jane E. Shey, Director of Government Affairs, Corn Refiners Association, Inc., Washington, D.C.

Mr. E. Linwood Tipton, President, Milk Industry Foundation and International Ice Cream Association, Washington, D.C.

Mr. Evans J. Plowden, Jr., General Counsel, Southeastern Peanut Association, Albany, Georgia

Mr. Thomas A. Hammer, President, Sweetener Users Association, Washington, D.C.

6. Panel:

Mr. John M. Tye, President, The Tye Company, representing Farm and Industrial Equipment Institute, Lockney, Texas

Mr. Bill Barton, Jr., Bonus Crop Fertilizer, representing The Fertilizer Institute, Bay City, Texas

Mr. Jay J. Vroom, Executive Vice President, National Agricultural Chemicals Association, Washington, D.C.

Mr. Kendell W. Keith, Executive Vice President, National Grain and Feed Association, Washington, D.C.

Statements Submitted for the Record:

1. Mr. R. A. Aker, President, National Cottonseed Products Association, Box 12023, Memphis, Tennessee 38182-0023

Thursday, July 13, 1989
Full Committee
Public Hearing and Business Meeting
Issues relating to formulation of the 1990 farm bill; Grand Island National Recreation Area - H.R. 1472; alternate crops on permitted acreage - H.R. 2799; and reconciliation

Chairman de la Garza called the meeting to order and apologized to the witnesses and visitors for the delay in starting the hearing. He explained that the Committee had been caucusing and due to the necessity to report a reconciliation package, the Members would be going back and forth to the caucus, as well as to the floor for consideration of the Tongass Timber Reform Act.

The witnesses listed on pages 2 and 3 of these minutes were recognized for their prepared testimony on issues relating to the formulation of the 1990 farm bill. Following their presentations, the witnesses were questioned by the Members of the Committee.

B U S I N E S S M E E T I N G

-- By voice vote H.R. 1472, as amended by Subcommittee, ordered reported to the House.

-- By voice vote Johnson amendment designating part of the base acreage as oats base adopted.

-- Without objection de la Garza amendment in the nature of a substitute agreed to.

-- By voice vote Marlenee amendment allowing for increased plantings of certain oilseeds crops on program crop permitted acres not adopted.

-- By voice vote H.R. 2799, as amended, ordered reported to the House.

-- By voice vote reconciliation recommendations approved pursuant to Budget Act of fiscal year 1990.

-- Without objection staff directed to work with interested Members to see if Marlenee amendment which had been defeated could be reformed and included in H.R. 2799.

Thursday, July 13, 1989
Full Committee
Public Hearing and Business Meeting
Issues relating to formulation of 1990 farm bill; Grand Island National Recreation Area - H.R. 1472; alternate crops on permitted acreage - H.R. 2799; reconciliation

At 4:20 p.m. following the testimony on the farm bill proposals, the Committee resolved into a business meeting for the consideration of pending business. The first item on the agenda was consideration of H.R. 1472, a bill to establish the Grand Island National Recreation Area in the State of Michigan.

Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy was recognized to explain the provisions of the bill, as reported by the Subcommittee. (See attached Committee Print bill, brief explanation, and section-by-section analysis.) Mr. Morrison, the Ranking Minority Member of the Subcommittee, also spoke in favor of the legislation.

Discussion occurred and by a voice vote H.R. 1472, as amended, was ordered reported to the House with the recommendation that it do pass in the presence of a quorum.

The next item on the agenda was consideration of H.R. 2799, a bill to allow planting of alternate crops on permitted acreage for the 1990 crop year. (See attached copy of bill and section-by-section analysis.) Without objection, the Subcommittees on Wheat, Soybeans, and Feed Grains and Cotton, Rice, and Sugar were discharged from further consideration of the bill. The Chairman explained that the bill was the same as a provision contained in the previously-passed disaster legislation, and discussion occurred.

Mr. Johnson offered the attached amendment designating part of base acreage as oats base, and discussion occurred. By a voice vote the amendment was agreed to.

Chairman de la Garza called the Committee's attention to the attached amendment in the nature of a substitute which was before the Members. Without objection the amendment was approved.

Mr. Marlenee offered the attached amendment to clarify section 301 of the 1988 Disaster Assistance Act which allows for increased plantings of oilseed crops (except peanuts) on program crop permitted acres on a farm, and discussion occurred. By a voice vote the amendment was not adopted.

Thursday, July 13, 1989
Full Committee
Public Hearing and Business Meeting
Issues relating to formulation of 1990 farm bill; Grand Island National Recreation Area - H.R. 1472; alternate crops on permitted acreage - H.R. 2799; reconciliation

By a voice vote H.R. 2799, as amended, was ordered reported to the House in the presence of a quorum.

The Committee began consideration of options for achieving reconciliation savings assigned to the Committee on Agriculture by the budget resolution for fiscal year 1990. The Chairman submitted the attached chart which reflected discussions in the Committee caucus. (See also attached summary.) He stated that additional savings were included with exact figures to be inserted later in order to make the Committee's deductions above what was necessary to give some flexibility in conference.

Without objection staff was directed to have the Congressional Budget Office run the figures and make whatever adjustments would be necessary to meet the Committee's requirements. Mr. Morrison moved that the reconciliation package be approved and by a voice vote the motion was agreed to.

Chairman de la Garza advised that language would also be added in three areas--sale of U.S. meat in commissaries, Farm Credit System bookkeeping procedures on interest on bonds, and extending to 150 days small communities purchase of FmHA bonds.

Mr. Madigan asked unanimous consent that staff work with Mr. Marlenee and other interested Members to try to work out acceptable language on his amendment to H.R. 2799 which could then be offered as a Committee amendment on the floor. There was no objection.

At 4:55 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

H.R. 1472

AS REPORTED BY THE SUBCOMMITTEE ON

FORESTS, FAMILY FARMS, AND ENERGY

SECTION 1. ESTABLISHMENT OF GRAND ISLAND NATIONAL RECREATION AREA.

In order to preserve and protect for present and future generations the outstanding resources and values of Grand Island in Lake Superior, Michigan, and for the purposes of providing for the conservation, protection, and enhancement of its scenery, recreation, fish and wildlife, vegetation, botany and historical and cultural resources, there is hereby established the Grand Island National Recreation Area (hereafter in this Act referred to as the "national recreation area"). These resources and values include but are not limited to cliffs, caves, beaches, forested appearance, natural biological diversity and features of early settlement.

SEC. 2. BOUNDARIES.

The national recreation area shall comprise all of the Grand Island in Lake Superior, Michigan, and all associated rocks, pinnacles, and islands and islets within one-quarter mile of the shore of Grand Island. The boundaries of the Hiawatha National Forest are hereby extended to include all of the lands within the national recreation area. All such extended boundaries shall be deemed boundaries in existence as of January 1, 1965, for the purposes of section 7 of the Land and Water Conservation Fund Act

of 1965 (16 U.S.C. 4601). All federally owned lands within the national recreation area on the date of enactment of this Act are hereby components of the National Forest System and shall be administered by the Secretary of Agriculture as provided in this Act.

SEC. 3. ADMINISTRATION.

(a) Administration.--Subject to valid existing rights, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall administer the national recreation area in accordance with the laws, rules, and regulations applicable to the National Forest System in furtherance of the purposes for which the national recreation area was established.

(b) Special Management Requirements.--The national recreation area also shall be administered according to the following special management requirements:

(1) Subject to such terms and conditions as may be prescribed by the Secretary, including the protection of threatened and endangered species and the protection of other natural, cultural, and scenic values, owners of privately owned land and homes within the national recreation area shall be afforded access across National Forest System lands.

(2) Consistent with section 7 of this Act, and the purposes of this Act, the Secretary shall provide for and

maintain traditional public access, including vehicular roads for general recreational activities such as camping, hiking, hunting, fishing, and trapping.

(3) The Secretary shall permit the use of snowmobiles on Federal lands in the national recreation area in accordance with the rules and regulations of the National Forest System and consistent with the management plan developed pursuant to section 7 of this Act. Such use shall be regulated to protect the resources of the national recreation area in a way that minimizes the degradation of these resources.

(4) Timber management shall be utilized only as a tool to enhance public recreation, scenic quality, game and nongame wildlife species, and the protection and enhancement of threatened, endangered, or sensitive species. Trees damaged or downed due to fire, insects, disease, or blowdown may be utilized, salvaged, or removed from the recreation area as authorized by the Secretary to further the purposes of the national recreation area.

(5) The Secretary shall, after acquiring fee title to at least 10,000 acres of land on Grand Island, provide reasonable water transportation from the mainland to Grand Island. Transportation may be provided through concession, permit, or other means, and a reasonable charge may be imposed. Transportation shall be subject to reasonable

regulation by the Secretary and shall not be required when the Secretary deems it to be unsafe because of factors such as weather and water conditions.

(6) The Secretary shall provide through concession, permit, or other means docking and lodge facilities consistent with the management plan developed pursuant to section 7 of this Act.

(7) The Secretary shall take reasonable actions to provide for public health and safety and for the protection of the national recreation area in the event of fire or infestation of insects or disease.

(8) Under the authority of the Act of March 4, 1915, as amended (16 U.S.C. 497), the Secretary shall issue occupancy and use permits for any privately owned home as of the date of Federal acquisition of the land within the national recreation area on which the home is located. Any such permit shall be issued for an initial period of 20 years and shall be renewed thereafter for successive 20-year periods so long as the permittee is in compliance with the purposes of this Act, the terms of the permit, and other applicable rules and regulations. Any such permit shall be issued in accordance with the laws, rules, and regulations of the Secretary pertaining to the National Forest System, except that such permit shall be subject to the following special provisions:

(A) Such permit may only be issued to the owner of such home as of the date of Federal acquisition of the property, such owner's spouse, the children and grandchildren of such owner and spouse, and their direct lineal descendants (natural or adopted offspring).

(B) Only noncommercial recreation occupancy may be permitted.

(C) The Secretary shall collect fees on an annual basis based on the fair market value of the occupancy permitted.

(D) The expansion, remodeling, or reconstruction of such homes shall be subject to approval of and regulation by the Secretary. No expansion, remodeling, or reconstruction may increase the height of structure or result in an increase of more than 25 percent of the sum of the exterior dimensions of a structure as it existed on the date of enactment of this Act. Any expansion, remodeling, or reconstruction shall be consistent with the criteria developed pursuant to section 7(b)(4) of this Act and shall be subject to such other terms and conditions as the Secretary may prescribe.

(E) Any such home may be purchased at the fair market value of the structure and improvements by the

Secretary on a willing seller basis.

(F) The permit may be terminated at any time for failure to comply with its term and conditions and applicable regulations without cost to the Federal Government in accordance with the permit.

(G) After termination of any such permit, if any improvements or property are not removed by their owner within one year of the termination, they shall become the property of the Federal Government.

(9) Solely for purposes of payments pursuant to section 6904 of title 31, United States Code, lands on Grand Island acquired by the United States after the date of enactment of this Act shall be considered to have been acquired for addition to a National Forest Wilderness Area (national forest portion of the National Wilderness Preservation System).

SEC. 4. ACQUISITION.

(a) General Authority.--The Secretary is authorized and directed to acquire by purchase, gift, exchange, or otherwise, lands, waters, structures, or interests therein, including scenic or other easements, within the boundaries of the national recreation area to further the purposes of this Act. The Secretary also is authorized and directed to acquire lands or structures by such means on the mainland to the extent necessary for access to and administrative facilities for the national

recreation area. In acquiring lands or structures under this subsection, the Secretary is directed to give prompt and careful consideration to any offer to sell land or structures made by an individual, organization, or any legal entity owning property within the boundaries of the national recreation area.

(b) Private Lands.--(1) An owner of unimproved real property within the national recreation area may construct recreational residences that are historically consistent with other structures within the national recreation area, as described by the management plan developed pursuant to section 7 of this Act.

(2) Any privately owned lands, interests in lands, or structures within the national recreation area shall not be disposed of by donation, exchange, sale, or other conveyance without first being offered at no more than fair market value to the Secretary. The Secretary shall be given a period of 120 days to accept an offer and, after such offer is accepted, a period of 45 days after the end of the fiscal year following the fiscal year in which the offer was accepted to acquire such lands, interests in lands, or structures. No such lands, interests in lands, or structures shall be sold or conveyed at a price below the price at which they have been offered for sale to the Secretary, and if such lands, interest in lands, or structures are reoffered for sale or conveyance they shall first be reoffered to the Secretary, except that this subsection shall not apply to a change in ownership of a property within the immediate

family of the owner of record on January 1, 1989. For the purposes of this subsection, the term "immediate family" means, with respect to any such owner of record, the spouse, siblings, children (whether natural or adopted), and lineal descendants of that owner.

SEC. 5. FISH AND GAME.

(a) In General.--Nothing in this Act shall be construed as affecting the responsibilities of the State of Michigan with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping in any lands acquired and managed by the Secretary under this Act, except that the Secretary may, in consultation with the State of Michigan, designate zones where, and establish periods when, no hunting, fishing or trapping shall be permitted for reasons of public safety, administration, the protection of nongame species and their habitats, or public use and enjoyment.

(b) Notice of Secretarial Action.--As soon as practicable after each case in which the Secretary exercises authority under subsection (a), the Secretary, in consultation with appropriate officials of the State of Michigan, shall take steps to notify area residents as to the nature of actions taken, and the location of zones designated and periods established, under subsection (a).

(c) Consultation.--Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect

after consultation with the fish and wildlife agency of the State of Michigan.

SEC. 6. MINERALS.

Subject to valid existing rights, the lands within the national recreation area are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing including all laws pertaining to geothermal leasing. Also subject to valid existing rights, the Secretary shall not allow any mineral development on federally owned land within the national recreation area, except that common varieties of mineral materials, such as stone, sand, and gravel, may be utilized only as authorized by the Secretary to the extent necessary for construction and maintenance of roads and facilities within the national recreation area.

SEC. 7. MANAGEMENT PLAN.

(a) Development.--After the Secretary acquires fee title to at least 10,000 acres of land on Grand Island, the Secretary, within 30 months, shall develop with public involvement a comprehensive management plan for the national recreation area which implements the provisions of this Act.

(b) Special Issues To Be Included.--The comprehensive management plan shall include, but not be limited to, the following issues:

(1) Public recreation, including consideration of a

range of appropriate recreational opportunities consistent with the rustic, natural, and historic character of the island, including, but not limited to, a system of trails and campsites in conjunction with the lodge referred to in paragraph (2) of this section.

(2) The feasibility of a concessionaire constructed, operated, and maintained rustic lodge and educational facility on no more than 55 acres located so as not to impair or alter existing scenic views or the existing tree line and forested appearance of Grand Island from any point within the boundaries of Pictured Rocks National Lakeshore. The plan shall address the economics of constructing, operating, and maintaining such a facility by a concessionaire or other entity; access by roads and waters; utilities; waste water treatment, garbage disposal, and other associated environmental impacts; management operations including construction, operation and maintenance; and the potential for permitted uses by government agencies, profit and nonprofit organizations, or individuals.

(3) Prescriptions concerning any management and harvest of timber, subject to section 3(b)(4) of this Act.

(4) General design criteria for new facilities or the improvement of existing facilities that are compatible with the rustic, natural, and historic character of the island

and their topographic and geological location, and that do not impair scenic views from the Pictured Rocks National Lakeshore.

(5) Water transportation from the mainland to the national recreation area by a concessionaire or other entity.

(6) The feasibility of concessionaire constructed, operated, and maintained docking facilities in the national recreation area and on the mainland.

(7) An inventory and assessment of existing traditional roads, the level of road use, access needs, and any vehicular regulation and management needed to protect the resources of the national recreation area while, at the same time, providing reasonable access to private property.

(c) Consultation.--In preparing the comprehensive management plan, the Secretary shall consult with the appropriate State and local government officials, provide for full public participation, and consider the views of all interested parties, organizations, and individuals.

SEC. 8. GRAND ISLAND ADVISORY COMMISSION.

(a) Establishment.--Subject to appointments as provided in subsection (b), there is established a Grand Island Advisory Commission (hereafter in this Act referred to as the "Commission") comprised of 12 members for the purpose of advising the Secretary on the preparation of the management plan which is

provided for in section 7 of this Act.

(b) Appointment.--(1) Commission members shall be appointed by the Secretary as follows:

(A) Three non-voting members, who shall be employees of the Forest Service including the Forest Supervisor of the Hiawatha National Forest.

(B) One member who shall be a resident of Munising, Michigan, who is not a Forest Service Employee.

(C) Two members who shall be recreational users of Grand Island who are not Forest Service employees.

(D) One member from nominations made by the Alger County Board of Commissioners who is a member of such board.

(E) One member from nominations made by the Alger County Economic Development Corporation who is a member of such corporation.

(F) One member from nominations made by the Grand Island Association [illegible] member of such association.

(G) One member from [illegible]ions made by the private landowners of Grand Island who is a private landowner on Grand Island.

(H) One member from nominations made by the Grand Island Township Board who is a member of such board.

(I) The Munising city manager, upon accepting the invitation of the Secretary.

(2) Any vacancy shall be filled in the same manner as the

original appointment.

(c) Quorum.--A quorum shall be six members. The operations of the Commission shall not be impaired by the fact that a member has not been appointed as long as a quorum has been attained.

(d) Procedures.--The Commission shall elect a Chairman and establish such rules and procedures as it deems necessary or desirable.

(e) Consultation.--The Secretary shall consult with the Commission on a periodic and regular basis with respect to the management plan.

(f) Pay.--(1) Members of the Commission who are not full-time officers or employees of the United States shall serve without pay.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(g) Proposals for Non-Federal Development on Federal Land.--The Commission shall recommend proposals for non-Federal development on the 55 acres described in section 7(b)(2) of this Act. It shall submit any such proposals to the Secretary for approval, rejection, or revision. The Secretary shall include in the management plan a development proposal submitted by the Commission or arrived at by any other means available to the Secretary.

(h) Termination.--The Commission shall cease to exist on the

date upon which the management plan is adopted.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) Acquisition of Lands.--There are hereby authorized to be appropriated an amount not to exceed $5,000,000 for the acquisition of land, interests in land, or structures within the national recreation area and on the mainland as needed for access and administrative facilities.

(b) Other Purposes.--In addition to the amounts authorized to be appropriated under subsection (a), there are authorized to be appropriated not more than $5,000,000 for development to carry out the other purposes of this Act.

BRIEF EXPLANATION

H.R. 1472 as reported by the Subcommittee on

Forests, Family Farms, and Energy

H.R 1472 would establish a National Recreation Area on Grand Island in Lake Superior, Michigan. The bill would extend the boundaries of the Hiawatha National Forest to include the Grand Island National Recreation Area (NRA) and provide that moneys from the land and water conservation fund would be available for acquisition of lands within the new NRA.

The bill would authorize the Secretary of Agriculture to administer the NRA in accordance with the laws and regulations of the National Forest System and certain special management requirements, including access for land owners and the public, snowmobile use, general prohibitions on timber harvesting, transportation from the mainland, docking and lodge facilities, and public health and safety. The bill would also generally prohibit any new mining or mineral development on lands within the NRA.

The bill would authorize and direct the Secretary to acquire lands, waters, structures, easements or other property interests, within the boundaries of the NRA or on the mainland, to further the purposes of the bill or to provide necessary access. The bill also gives the Secretary a right of first refusal to purchase any privately owned lands, structures or interests therein within the NRA.

The bill would authorize the Secretary, to designate zones and time periods within which no hunting, fishing, or trapping would be permitted. As amended by the subcommittee, the bill would require the Secretary to consult with the State of Michigan regarding these designations.

The bill would require the Secretary to develop a comprehensive management plan (CMP) for the NRA within 30 months after acquiring title to at least 10,000 acres of land on Grand Island, and would establish a Grand Island Advisory Commission to advise the Secretary on the preparation of the CMP. As amended by the subcommittee, the bill would require non-voting membership on the commission of 3 employees of the Forest Service, including the Forest Supervisor of the Hiawatha National Forest.

The bill would authorize appropriations of $5 million for acquisition of land, interests in land, or structures within the NRA and on the mainland and an additional $5 million for development to carry out the other purposes of the bill.

H.R. 1472

AS REPORTED BY THE SUBCOMMITTEE ON

FORESTS, FAMILY FARMS, AND ENERGY

SECTION-BY-SECTION ANALYSIS

SECTION 1. -- ESTABLISHMENT OF GRAND ISLAND NATIONAL RECREATION AREA.

Section 1 establishes the Grand Island National Recreation Area (NRA) and lists the purposes for its establishment. These purposes are to preserve and protect the outstanding resources and values of the island and to conserve, protect and enhance the scenery, recreation, fish and wildlife, vegetation, botany and historical and cultural resources. The island's resources and values include, but are not limited to, cliffs, caves, beaches, forested appearance, natural biological diversity and features of early settlement.

SEC. 2. -- BOUNDARIES.

Section 2 defines the area to be included in the NRA. This area includes all of Grand Island plus all associated rocks, pinnacles, islands and islets within one-quarter mile of the shore of Grand Island. Section 2 also extends the boundaries of the Hiawatha National Forest to include all of the lands within the NRA and defines these extended boundaries as in existence as of January 1, 1965, for the purposes of section 7 of the Land and

Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9)[1]. Finally, section 2 designates all federally owned lands within the NRA as components of the National Forest System to be administered by the Secretary of Agriculture.[2]

SEC. 3. -- ADMINISTRATION.

Section 3(a) directs the Secretary, subject to valid existing rights, to administer the NRA in accordance with the laws, rules and regulations of the national forest system in furtherance of the purposes described in Section 1.

Section 3(b) directs the Secretary to administer the NRA according to the following special management requirements:

(1) Owners of private lands and homes within the NRA shall have access across National Forest System lands, subject to terms and conditions prescribed by the Secretary including those to protect threatened and endangered species and natural, cultural

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[1] Section 7 generally concerns the uses of funds from the land and water conservation fund. In this case, the reference is taken to be for acquisition within the boundaries of national forests. The fund consists of receipts from the disposal of surplus real property and related personal property under the Federal Property and Administrative Services Act of 1949, motorboat fuels tax, and where the annual income of the fund is less than $900,000,000, receipts under the Outer Continental Shelf Lands Act sufficient to bring the annual income of the fund up to that level.

[2] The Interior Committee report states that the Interior Committee intends that only those lands above the mean high water mark be included in the NRA and that submerged lands such as the Alger Underwater Preserve not be included.

and scenic values.[3]

(2) The Secretary shall provide for and maintain traditional public access, including vehicular roads for general recreational activities such as camping, hiking, hunting, fishing, and trapping in ways that are consistent with the purposes of the bill and the NRA management plan required by section 7.

(3) The Secretary shall permit the use of snowmobiles on Federal lands in the national recreation area. Their use must be consistent with the provisions of the NRA management plan, in accordance with the rules and regulations of the National Forest System, and regulated to protect the resources of the NRA and minimize degradation of those resources.

(4) Timber management shall be utilized only as a tool to enhance public recreation, scenic quality, game and nongame wildlife species, and the protection and enhancement of threatened, endangered or sensitive species. Trees damaged or downed by fire, insects, disease or wind may be utilized, salvaged or removed as authorized by the Secretary to further the

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[3] The Interior Committee report states that:
The Committee intends that access be given to those individuals who own their homes, but lease the lands on which their homes are located from the Forest Service, and to those inholders who own both their homes and their land. It is not the Committee's intent that the Forest Service be required to open roads needed for such access to the general public. The Committee intends that access for nonproperty owners should be governed by provisions in the NRA's management plan described in Section 7 and may or may not include the above access roads. The Committee also intends that property owners share in the maintenance of their access roads proportionately to their use of them.

purposes of the NRA.[4]

(5) Once the Secretary has acquired fee title to at least 10,000 acres of land on Grand Island, the Secretary shall provide reasonable water transportation for the public from the mainland to Grand Island. This transportation may be provided either through concession, permit, or other means, and a reasonable charge may be imposed. Such transportation shall be subject to reasonable regulation by the Secretary and shall not be required when the Secretary deems it to be unsafe because of factors such as weather and water conditions.[5]

(6) The Secretary shall provide docking and lodge facilities consistent with provisions in the NRA management plan developed pursuant to section 7, through concession, permit, or other means.[6]

(7) The Secretary shall take reasonable actions to provide for the health and safety of the public and to protect the NRA in

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[4] The Interior Committee report states that the Committee intends that this language preclude large commercial timber sales.

[5] The Interior Committee report states that the Committee intends that if a third party is not forthcoming that the Forest Service still provide this transportation even if it means that the Forest Service must own and operate the necessary boat or boats itself, and that the Committee further intends that this transportation generally be offered daily and include a published schedule available to visitors.

[6] The Interior Committee report states that the Committee intends that the Forest Service provide these facilities even if a third party is not forthcoming. If such is the case the Interior Committee intends that the Forest Service construct, maintain and operate these facilities itself.

the event of fire, insect infestation or disease.[7]

(8) The Secretary shall, under the authority of the Act of March 4, 1915 (16 U.S.C. 497)[8], issue occupancy and use permits to the owners of private homes who own their homes on the date that the federal government acquires the lands on which their homes are located. These permits shall be issued for an initial period of 20 years and shall be renewed thereafter for successive 20-year periods so long as the permittee is in compliance with the purposes of the bill, the terms of the permit, and other applicable rules and regulations. Any such permit shall be issued in accordance with the laws, rules, and regulations of the Secretary pertaining to the National Forest System, except that such permit shall be subject to the following special provisions:

(A) Such permit may only be issued to the owner of such home as of the date of Federal acquisition of the property, such owner's spouse, the children and grandchildren of such owner and spouse, and their direct lineal descendants (natural or adopted offspring).

(B) Only noncommercial recreation occupancy may be permitted.

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[7] The Interior Committee report states that the Committee urges that the Forest Service develop search and rescue plans for those who may be lost or injured in the NRA.

[8] This section generally authorizes the Secretary to permit the use and occupancy of land within the national forests. Different time period and acreage restrictions apply based on the purpose of the use and occupancy.

(C) The Secretary shall collect fees on an annual basis based on the fair market value of the occupancy permitted.

(D) The expansion, remodeling, or reconstruction of such homes shall be subject to approval of and regulation by the Secretary. No expansion, remodeling, or reconstruction may increase the height of a structure or result in an increase of more than 25 percent of the sum of the exterior dimensions of a structure as it existed on the date of enactment of the bill. Any expansion, remodeling, or reconstruction shall be consistent with the criteria developed pursuant to section 7(b)(4) of the bill and shall be subject to such other terms and conditions as the Secretary may prescribe.

(E) Any such home may be purchased at the fair market value of the structure and improvements by the Secretary on a willing seller basis.

(F) The permit may be terminated at any time for failure to comply with its terms and conditions and applicable regulations without cost to the Federal Government in accordance with the permit.

(G) After termination of any such permit, if any improvements or property are not removed by their owner within one year of the termination, they shall become the

property of the Federal Government.[9]

(9) Solely for purposes of payments pursuant to section 6904 of title 31, United States Code[10], lands on Grand Island acquired by the United States after the date of enactment of the bill shall be considered to have been acquired for addition to a National Forest Wilderness Area (national forest portion of the National Wilderness Preservation System).[11]

SEC. 4. -- ACQUISITION.

Section 4(a) authorizes and directs the Secretary to acquire lands, waters, structures or interests therein within the boundaries of the NRA by purchase, gift, exchange or otherwise.

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[9] The Interior Committee report states that the Committee intends that the provisions of this paragraph allow the Forest Service to revoke or not to reissue such permits when permittees violate their terms and conditions. When permittees are in compliance, the Interior Committee expects that the Forest Service would renew their permits.

[10] This section provides generally for payments by the Secretary of the Interior to units of general local government, for the 5 fiscal years after the fiscal year in which the federal government acquires an interest in land located within the jurisdiction of such local government.

[11] According to the Interior Committee, this section applies a special provision of the payment in lieu of taxes (PILT) law to the lands acquired under this Act. The language allows Alger County to receive an extra PILT payment for 5 years to compensate for loss of property tax revenue caused by the bill. This extra PILT payment normally applies to private lands that are added to national park units or national forest wilderness areas. Because adding lands to the Grand Island National Recreation Area is a similar action with similar effects on local tax revenues, the Committee believes that applying this provision of the PILT law to Grand Island is appropriate. After five years, the County would receive the normal PILT payment that is applied to national forest lands.

It further authorizes and directs the Secretary to acquire lands or structures on the mainland to the extent necessary for access to and administrative facilities for the NRA. The Secretary also is required to consider promptly and carefully any offers to sell land or structures within the NRA.[13]

Section 4(b) states that owners of unimproved property within the NRA may construct residences that are recreational and that are consistent historically with other structures within the NRA as described by the NRA management plan. It further states that the Secretary will have the right of first refusal before any privately owned lands, interests in lands or structures within the NRA are conveyed. They first must be offered to the Secretary at not more than fair market value. The Secretary has

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[13] The Interior Committee report states that the Committee on Interior intends that condemnation of fee title be used only to abate actual or threatened private land uses which are inconsistent with and detract from the purposes of the bill and the NRA management plan. The Committee does not intend by the above statement that the use of condemnation to clear title, acquire scenic easements and necessary rights of way be restricted beyond policies normally followed by the agency. However, any acquisition of a scenic easement should generally permit regular uses of the property existing as of January 1, 1989.

The Committee feels that condemnation is inappropriate if: (1) the lands or structures are being used in the same manner and for the same purpose as used on January 1, 1989; or (2) structures are destroyed and subsequently rebuilt in substantially the same size, materials and location as previously existed; or (3) the lands are improved by construction so long as improvements do not exceed the height of the roofs of existing buildings, do not increase the sum of the exterior dimensions of existing buildings by 25% over that existing on January 1, 1989, and are constructed of natural materials (as deemed by the Secretary as consistent with the colors and materials used elsewhere in the national recreation area).

120 days to accept such an offer and, if accepted, 45 days after the end of the fiscal year following the fiscal year in which the offer was made to complete the acquisition. The subsection prohibits lands, interests in lands or structures from being sold or conveyed to another party for less than the price they were offered to the Secretary. Whenever they are reoffered for sale or conveyance they must first be reoffered to the Secretary. The subsection makes an exception to these sale and conveyance restrictions for changes in ownership within the immediate family of the owner, consisting of such owner's spouse, siblings, natural or adopted children and lineal descendants.[13]

SEC. 5. -- FISH AND GAME.

Section 5(a) states that the bill will not affect the responsibilities of the State of Michigan regarding fish and wildlife. However, the Secretary is authorized to designate, in consultation with the State of Michigan, zones closed to hunting, fishing or trapping for public safety, administration, protection of nongame species and habitat or public use and enjoyment.

Section 5(b) requires the Secretary, in consultation with appropriate state officials, to notify area residents, as soon as practicable after each case in which the Secretary exercises the authority under subsection (a), as to the nature of the action

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[13] The Interior Committee report states that the Committee on Interior intends that if the Secretary does not exercise the right of first refusal for unimproved real property that any new owner would also be allowed to construct a residence consistent with the provisions of this subsection.

taken, the locations of zones designated, and the periods established.

Section 5(c) requires the Secretary to consult with the State's fish and wildlife agency before putting into effect any regulations resulting from this section.

SEC. 6. -- MINERALS.

Section 6 withdraws the NRA from any mining activity except for valid existing rights and common materials such as sand, stone, and gravel needed for NRA roads and facilities.

SEC. 7. -- MANAGEMENT PLAN.

Section 7(a) directs the Secretary to develop a comprehensive management plan (CMP) for the NRA within 30 months after acquiring fee title to at least 10,000 acres of land on Grand Island.

Section 7(b) directs that the provisions of the comprehensive management plan shall include, but not be limited to, issues of --

(1) public recreation;

(2) the feasibility of a concessionaire to construct and operate a lodge and educational facility limited to no more than 55 acres of land;

(3) timber harvest prescriptions;

(4) design criteria for facilities;

(5) transportation to the NRA from the mainland;

(6) the feasibility of concessionaire docking facilities;

and

(7) an inventory and assessment of roads.

Section 7(c) requires the Secretary to consult with the appropriate State and local government officials and provide for full public participation in preparing the plan.

SEC. 8. -- GRAND ISLAND ADVISORY COMMISSION.

Section 8(a) establishes the Grand Island Advisory Commission for the purpose of advising the Secretary on the preparation of the NRA management plan.[14]

Section 8(b) directs the Secretary on how to appoint the 12 members of the Commission and how to fill vacancies.

Section 8(c) establishes six members as a commission quorum and allows the Commission to operate if a quorum is present even if some members have not been appointed.

Section 8(d) directs the Commission to elect a Chairman and to establish rules and procedures.

Section 8(e) directs the Secretary to consult with the Commission on a periodic and regular basis with respect to the management plan.

Section 8(f) requires members of the Commission who are not federal employees to serve without pay. It further stipulates that members who are full-time federal employees will receive no additional pay solely because of their Commission

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[14] The Interior Committee report states that the Committee on Interior intends that the Commission be purely advisory and that its recommendations not be binding on the Secretary.

responsibilities.

Section 8(g) directs the Commission to recommend proposals for non-federal development on the 55 acres earmarked in Section 7 for a lodge and education facility. The Secretary must include in the NRA management plan a development proposal for such a facility; however, it is not required that this proposal be one of the proposals recommended by the Commission.[15]

Section 8(h) terminates the Commission when the final NRA management plan is adopted.

SEC. 9. -- AUTHORIZATION OF APPROPRIATIONS.

Section (9)(a) authorizes $5 million to be appropriated for the acquisition of land, interest in land or structures within the NRA and on the mainland as needed for access and administrative facilities.

Section 9(b) authorizes an additional $5 million to be appropriated for development to carry out the other purposes of the bill.[16]

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[15] The Interior Committee report states that the Committee intends for the Commission to provide recommendations on other parts of the plan as well.

[16] The Interior Committee report states that the Committee on Interior does not intend for operation costs to be limited to these amounts.

STATEMENT OF
THE HONORABLE SID MORRISON
BEFORE THE COMMITTEE ON AGRICULTURE
H.R. 1472, GRAND ISLAND MICHIGAN
NATIONAL RECREATION AREA MARK-UP
July 13, 1989

Mr. Chairman, I appreciate the opportunity to report to the full Committee that the Forests, Family Farms and Energy Subcommittee held a hearing on H.R. 1472 and favorably reported out the bill after amending it slightly to assist the Forest Service and to clarify our intent.

Grand Island represents a unique environmental opportunity that is a good deal for the both the federal government and the public. I urge my colleagues to support this bill.

Thank you Mr. Chairman.

27-445 O - 90 - 18

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101ST CONGRESS
1ST SESSION

H. R. 2799

To amend the Agricultural Act of 1949 to allow the planting of alternate crops on permitted acreage for the 1990 crop year.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1989

Mr. ESPY (for himself and Mr. STENHOLM) introduced the following bill; which was referred to the Committee on the Agriculture

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A BILL

To amend the Agricultural Act of 1949 to allow the planting of alternate crops on permitted acreage for the 1990 crop year.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 504(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1464(b)(2)) is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following:

"(E) notwithstanding subparagraph (D), in the case of the 1990 crop year, acreage in an amount not

to exceed 20 percent of the permitted acreage for a program crop, if—

"(i) the acreage considered to be planted is planted to canola, rapeseed, sunflower, safflower, flaxseed, kenaf, crambe, guayule, milkseed, or meadowfoam;

"(ii) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

"(iii) payments are not received by producers under section 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; and".

SECTION-BY-SECTION ANALYSIS OF H. R. 2799

H.R. 2799 will amend section 504(b)(2) of the Agricultural Act of 1949, effective only for the 1990 crops, to add a new subparagraph (E) that will require the acreage considered planted to a program crop to include, in the case of the 1990 crop year, acreage in an amount equal to not to exceed 20 percent of the permitted acreage for a program crop, if--

(1) the acreage considered to be planted is planted to canola, rapeseed, sunflower, safflower, flaxseed, kenaf, crambe, guayule, milkweed, or meadowfoam;

(2) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

(3) payments are not received by producers under section 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be.

(Note: Sections 107D(c)(1)(C) and 105C(c)(1)(B) of the Agricultural Act of 1949 authorizes the 0/92 program for wheat and feed grains respectively. Sections 103A(c)(1)(B) and 101A(c)(1)(B) of the Agricultural Act of 1949 authorizes the 50/92 program for upland cotton and rice respectively.)

Johnson

AN AMENDMENT TO H. R. 2799 OFFERED BY MR. GLICKMAN

H. R. 2799 is amended by adding at the end thereof the following new section:

"SEC. ___. OATS.

Effective only for the 1990 crops, section 503(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1463(c)(1)) is amended by striking 'if the acreage limitation percentage established for a crop of feed grains under section 105C(f) is 12.5 percent or less,'".

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2799

Strike all after the enacting clause and insert the following:

SECTION 1. PLANTING OF ALTERNATIVE CROPS ON PERMITTED ACREAGE.

Effective only for the 1990 crops, section 504(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1464(b)(2)) is amended by--

(1) striking "and" at the end of subparagraph (D);

(2) redesignating subparagraph (E) as subparagraph (F); and

(3) inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of the 1990 crop year, acreage in an amount not to exceed 20 percent of the permitted acreage for a program crop, if--

"(i) the acreage considered to be planted is planted to canola, rapeseed, sunflower, safflower, flaxseed, kenaf, crambe, guayule, milkweed, or meadowfoam;

"(ii) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

"(iii) payments are not received by producers under section 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; and".

Amendment No. 3 offered by Mr. Marlenee

Section 504(e) of the Agricultural Act of 1949 (7 U.S.C. 1464(e)) is amended --

(a) by striking in clauses (i) and (ii) of subparagraph (1)(A) the phrase "(not less than 10 percent nor more than 25 percent)" and inserting in lieu thereof the phrase "(not to exceed 25 percent)"; and

(b) at each place in subsection (e) where the phrase "soybeans or sunflowers" appears, by striking such phrase and inserting in lieu thereof the phrase "soybeans, sunflowers, safflowers, canola, or other oilseed crop (except peanuts)"; and

(c) by adding at the end of subsection (e) the following new subsections:

"(f) Notwithstanding any other provision of law, the Secretary of Agriculture shall allow producers within a state to combine or pool between farms any acres approved for plantings of soybeans, sunflowers, safflower, canola, or other oilseed crop pursuant to this section, and in order to accommodate such combination or pooling of approved acres shall provide an orderly method whereby program crop permitted acres may be transferred (for the immediate crop year

only) to farms which contribute oilseed acres into the pool and in accordance with any written agreement between the owners or operators of all farms participating in the pooling of approved additional oilseed crop acres.

"(g) Notwithstanding any other provision of law, in the event a producer who has stated an intention regarding the use of the increased planting provisions under subsection (e) of this section decides after the termination of the sign-up period to plant the farm's permitted program crop instead of soybeans, sunflowers, safflower, canola, or other oilseed crop on the acreage indicated by the producer at sign-up (as adjusted by the Secretary under clause (1)(B)(iii) of subsection (e), then the Secretary may withhold program benefits on up to 50 percent of the program crop grown on the adjusted acreage approved for increased plantings of soybeans, sunflowers, safflower, canola, or other oilseed crops.".

Amendment No. 3 offered by Mr. Marlenee

Section 504(e) of the Agricultural Act of 1949 (7 U.S.C. 1464(e)) is amended --

(a) by striking in clauses (i) and (ii) of subparagraph (1)(A) the phrase "(not less than 10 percent nor more than 25 percent)" and inserting in lieu thereof the phrase "(not to exceed 25 percent)"; and

(b) at each place in subsection (e) where the phrase "soybeans or sunflowers" appears, by striking such phrase and inserting in lieu thereof the phrase "soybeans, sunflowers, safflowers, canola, or other oilseed crop (except peanuts)"; and

(c) by adding at the end of subsection (e) the following new subsections:

"(f) Notwithstanding any other provision of law, the Secretary of Agriculture shall allow producers within a state to combine or pool between farms any acres approved for plantings of soybeans, sunflowers, safflower, canola, or other oilseed crop pursuant to this section, and in order to accommodate such combination or pooling of approved acres shall provide an orderly method whereby program crop permitted acres may be transferred (for the immediate crop year

only) to farms which contribute oilseed acres into the pool and in accordance with any written agreement between the owners or operators of all farms participating in the pooling of approved additional oilseed crop acres.

"(g) Notwithstanding any other provision of law, in the event a producer who has stated an intention regarding the use of the increased planting provisions under subsection (e) of this section decides after the termination of the sign-up period to plant the farm's permitted program crop instead of soybeans, sunflowers, safflower, canola, or other oilseed crop on the acreage indicated by the producer at sign-up (as adjusted by the Secretary under clause (1)(B)(iii) of subsection (e), then the Secretary may withhold program benefits on up to 50 percent of the program crop grown on the adjusted acreage approved for increased plantings of soybeans, sunflowers, safflower, canola, or other oilseed crops.".

Bill Emerson

AG RECONCILITATION - BUMPERS-PRYOR REMARKS BY BILL EMERSON
BEFORE THE AG COMMITTEE
JULY 13, 1989

AS THE SENATE CURRENTLY WORKS ON A SOLUTION REGARDING THE BUMPERS-PRYOR ISSUE, I WISH TO REMIND THE COMMITTEE OF THE IMPORTANCE THIS MATTER HOLDS WITH THE MANY STOCKHOLDERS AND BORROWER-MEMBERS OF THE FARM CREDIT SYSTEM. MOST ALL OF YOU ARE FAMILIAR WITH THE DETAILS OF THIS ISSUE, SO I WILL NOT ADDRESS THEM AT THIS TIME. HOWEVER, PLEASE DO UNDERSTAND THAT MANY FARMERS, DEPENDENT UPON THE FARM CREDIT SYSTEM, ARE ADVERSELY AFFECTED BY A BUMPERS-PRYOR REPEAL AND INDEED, THESE CONCERNS SHOULD NOT BE QUICKLY DISMISSED.

I UNDERSTAND THAT A COMPROMISE MAY SOON BE REACHED BETWEEN THE SENATE AND O.M.B. AND AS A RESULT, WE WILL HAVE THE OPPORTUNITY TO ADDRESS THIS MATTER FURTHER. LIKEWISE, I URGE THIS COMMITTEE TO KEEP AN OPEN MIND AS WE APPROACH A RECONCILIATION CONFERENCE WITH THE SENATE. IT IS MY HOPE THAT MANY OF THE CONCERNS THE COMMITTEE PRESENTLY HAS, CAN BE RESOLVED BY THE PRESENT SENATE-O.M.B. NEGOTIATIONS. WHEN SUCH A COMPROMISE IS REACHED, LET'S TAKE A CAREFUL LOOK AT THIS MATTER AND KEEP OURSELVES OPEN TO ANY VIABLE SOLUTION THAT MAY BE BROUGHT TO CONFERENCE.

Tim Roberts concurs in this statement.

1990 RECONCILIATION

	(in millions $) FY 1990	FY 1991
Mandate oilseed program	-116	-123
Reduce EEP $300 million	-216	18
Reduce TEA $125 million	-50	-41
Delay deficiency payments	-54	0
CRP moratorium	0	-150
Readjust dairy prices	-25	-10
Alternative crops	-10	-15
0/92 for cotton and rice	-14	-104
Calculate deficiency payment on season average price	-203	-290
Repeal Bumper-Pryor	-425	-475
Total	-1113	-1190
Target	-1093	-1143

Summary of Reconciliation Recommendations:

1. **Mandate the 'Oilseed Planting Program' for 1990 and 1991 crops.**
   Savings: FY 1990 - $116 million; FY 1991 - $123 million.

Extends the provisions, contained in the 1988 Disaster Assistance Act, allowing 10-25 percent of permitted acreage to be planted in soybeans or sunflowers without loss of base. Savings result from fewer deficiency payments and commodity loans made on program crop acreage.

2. **Reduce export enhancement program (EEP) by $300 million and targeted export assistance program (TEA) by $125 million in FY 1990.**
   Savings: EEP: FY 1990 - $216 million; FY 1991 - [+$18 million]
   TEA: FY 1990 - $50 million; FY 1991 - $41 million.

EEP reduction would be made because this year's drought-reduced wheat crop means there are fewer "bonus" stocks available, and world consumption is expected to exceed world production, drawing down stocks further. For TEA, this basically continues its funding at FY 1989 levels.

3. **Permit repayment of unearned 1988 deficiency payments after Dec. 31, 1989.**
   Savings: FY 1990 - $54 million; FY 1991 - [$0].

Repayment of most unearned deficiency payments is expected to be made after harvest. Under this provision, repayment for winter-planted crops would not be required until 1990. This measure shifts the repayments from FY 1989 into FY 1990.

4. **Impose moratorium on further CRP enrollments until January 1991; extend enrollment authority to 1992.**
   Savings: FY 1990 - [$0]; FY 1991 - $150 million.

Besides budget savings, a moratorium would permit Congress time to examine the objectives and performance of the conservation reserve program (CRP) during the 1990 farm bill debate.

5. **Adjust butter/nonfat dry milk CCC purchase prices.**
   Savings: FY 1990 - $25 million; FY 1991 - $10 million.

Committee receives credit for S. 553, enacted earlier this year. This law altered the way the Secretary of Agriculture allocated butter and non-fat dry milk powder purchases between April 1, 1989 and July 1, 1989.

6. **Permit planting of alternative crops on 1990 crop permitted acres.**
   Savings: FY 1990 - $10 million; FY 1991 - $15 million.

Committee receives credit for this provision which is included in H.R. 2467, the 1988 Disaster Extension Act. This provision in H.R. 2467 allows producers to plant up to 20 percent of their permitted acreage to canola, rapeseed, sunflower, safflower, flaxseed, kenaf, crambe, guayule, milkweed and meadowfoam without loss of base.

7. Extend 0/92 to 1990 cotton and rice crops.
Savings: FY 1990 -- $14 million; FY 1991 -- $104 million.

Replaces the existing 50/92 provision for cotton and rice with the 0/92 provision in effect for wheat and feed grains. Under 0/92, if a producer plants between 0 and 92 percent of their permitted cotton and/or rice acreage and devotes the remaining permitted acres to a conserving use, then they are eligible to receive deficiency payments on 92 percent of the permitted acreage.

8. Calculate deficiency payment on 12-month season-average price.
Savings: FY 1990 -- $203 million; FY 1991 -- $290 million.

This changes the calculation of deficiency payments from the difference between the target price and the 5-month average price to the difference between the target price and the 12-month season average price. This results in an estimated 10-cent reduction in the deficiency payment rate for wheat and feed grains. While this provision does reduce farm income transfer payments, it also forces producers to improve their marketing to obtain at least the season average price to ensure realizing their guarantee of the target price.

9. Repeal Bumpers-Pryor amendment to 1987 Agricultural Credit Act.
Savings: FY 1990 -- $425 million; FY 1991 -- $475 million.

The 1987 Act required Farm Credit System institutions to buy stock in a new Financial Assistance Corporation (FAC) in exchange for the $4 billion debt issued by FAC and guaranteed by the U.S. Treasury. The Bumpers-Pryor amendment allowed the refund half of FAC stock purchases and provided that new stock purchases, beginning in 1990, be only in proportion to the amount of debt actually issued. The Office of Management and Budget claims that this amendment would put the FAC mechanism on-budget, and all bonds sold would be scored as increases to the deficit. Repealing Bumpers-Pryor would return FAC to its off-budget status.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, July 18, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:00 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing H.R. 2869, the Commodity Futures

Improvements Act of 1989

The following Members were present:

Mr. English	Mr. Coleman	Members Also Present:
Mr. Tallon	Mr. Morrison	Mr. Glickman
Mr. Penny	Mr. Gunderson	Mr.
Mr. Stallings	Mr. Combest	Mr.
Mr. Nagle	Mr. Grandy	Mr.
Mr. Harris	Mr. Holloway	Mr.
Mr. Staggers	Mr.	Mr.
Mr. Espy	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Mr. Long	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Bert R. Peña, Staff Director
Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Joe Muldoon, Majority Assistant Counsel
Alice Devine, Minority Associate Counsel
Fred Clark, Majority Associate Counsel
Bill Cherry, Subcommittee Staff Director
Jim McDonald, Subcommittee Consultant
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk
Jim Davis, Press Secretary

Witnesses:

1. Hon. Neal Smith, Member of Congress from Iowa

2. Hon. Wendy L. Gramm, Chairman, Commodity Futures Trading Commission, Washington, D.C.
   Acc. by: Ms. Andrea Corcoran, Director, Division of Trading and Markets, CFTC
   Mr. Robert Mackay, Chief of Staff, CFTC
   Mr. David Kass, Regional Office Director, CFTC, Chicago, Illinois
   Mr. Dennis Klejna, Director, Division of Enforcement, CFTC
   Mr. Steve Manaster, Director, Division of Economic Analysis, CFTC

3. Mr. John M. Damgard, President, Futures Industry Association, Washington, D.C.

4. Mr. Frank Beurskens, President, Advance Trading, Inc., Bloomington, Illinois, representing the National Grain and Feed Association, Washington, D.C.

5. Panel:

   Mr. Michael Braude, President and Chief Executive Officer, Kansas City, Board of Trade, Kansas City, Missouri

   Mr. Roger Stover, Chairman, Kansas City Board of Trade, Kansas City, Missouri

6. Panel:

   Mr. Z. Lou Guttman, Chairman, Board of Directors, New York Mercantile Exchange, Inc., New York, New York

   Mr. Bennett J. Corn, President, Coffee, Sugar, and Cocoa Exchange, New York, New York

   Mr. Robert E. Fink, Chairman of the Board, Commodity Exchange, Inc., New York, New York

7. Mr. Robert Isaacson, Vice President, National Association of Futures Trading Advisors, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Claude Harris, Member of Congress from Alabama

2. Hon. Glenn English, Member of Congress from Oklahoma

3. Hon. E. Thomas Coleman, Member of Congress from Missouri

Tuesday, July 18, 1989
Subcommittee on Conservation,
Credit, and Rural
Development
Public Hearing
Commodity Futures Improvements
Act of 1989 - H.R. 2869

Chairman English called the meeting to order for the purpose of reviewing H.R. 2869, a bill to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission, establish registration standards for all exchange floor traders, restrict practices which may lead to the abuse of outside customers of the marketplace, reinforce development of exchange audit trails to better enable the detection and prevention of such practices, establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations, enhance the international regulation of futures trading, regularize the process of authorizing appppropriations for the Commodity Futures Trading Commission, and for other purposes. Mr. English made opening comments as did Mr. Coleman, the Ranking Minority Member of the Subcommittee.

The witnesses listed on page 2 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The following special introductions were made: Mr. Coleman - Messrs. Braude and Stover.

During the proceedings a recess was taken at 1:40 p.m. to enable Members to respond to a recorded vote on the House floor. At 5:25 p.m. the meeting was adjourned, to reconvene on Thursday, July 20, to receive testimony from other scheduled witnesses.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, July 19, 1989

(Sub) Committee: Full

Public Hearing

met at 9:30 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing issues relating to the formulation of the 1990 farm bill

The following Members were present:

Mr. de la Garza
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Tallon
Mr. Staggers
Mr. Olin
Mr. Penny
Mr. Stallings
Mr. Nagle
Mr. Jontz
Mr. Johnson
Mr. Harris
Mr. Campbell
Mr. Espy
Mr. Sarpalius
Mr. Long
Mr. Dyson
Mr. Lancaster
Mr.
Mr.
Mr.
Mr. Madigan
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Gunderson
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr. Grandy
Mr. Herger
Mr. Holloway
Mr. Walsh
Mr. Grant

Staff present:

Bert R. Peña, Staff Director
Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Alice Devine, Minority Associate Counsel
Glenda Temple, Clerk
Jim Davis, Press Secretary
Joe Dugan, Assistant Press Secretary
Charles Hilty, Minority Staff Director
Tom Lederer, Staff Assistant
Jim Lyons, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

1. Honorable Clayton Yeutter, Secretary, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Jack C. Parnell, Deputy Secretary, U.S. Department of Agriculture, Washington, D.C.

   Mr. Richard T. Crowder, Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C.

Wednesday, July 19, 1989
Full Committee
Public Hearing
Issues relating to formulation
of the 1990 farm bill

Chairman de la Garza called the meeting to order for the purpose of receiving the views of the Administration on the direction of the 1990 farm bill. The Chairman made opening comments and recognized Secretary Yeutter for his remarks.

Following presentation of the Administration's views on preliminary ideas for the next farm bill, the Secretary and those accompanying him were questioned by the Members of the Committee.

During the proceedings one recess was taken at 10:05 a.m. to enable Members to respond to a recorded vote on the House floor. Mr. Stenholm assisted the Chairman with the chairing responsibilities, and at 12:55 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, July 19, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 2:00 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing H.R. 1776, the Fresh Lime Research, Promotion, and Consumer Information Act of 1989

The following Members were present:

Mr. Hatcher	Mr. Emerson	Mr.
Mr. Espy	Mr. Lewis	Mr.
Mr. Sarpalius	Mr. Herger	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Julia Paradis, Subcommittee Staff Director
Dean Mitchell, Staff Assistant
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk
Fred Clark, Majority Associate Counsel
Anita Brown, Staff Assistant

Witnesses:

1. Hon. Dante B. Fascell, Member of Congress from Florida

2. Dr. Kenneth C. Clayton, Acting Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.

3. Mr. Pal Brooks, J.R. Brooks & Son, Homestead, Florida
   Acc. by: Mr. James Humble, producer, Homestead, Florida

Statements Submitted for the Record:

1. Hon. Charles Hatcher, Member of Congress from Georgia

2. Hon. Bill Emerson, Member of Congress from Missouri

3. Hon. Tom Lewis, Member of Congress from Florida

4. American Farm Bureau Federation, 600 Maryland Avenue, SW, Washington, D.C. 20024

Wednesday, July 19, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Public Hearing
Fresh Lime Research, Promotion,
and Consumer Information Act
H.R. 1776

Chairman Hatcher called the meeting to order and made brief opening comments on the need to review H.R. 1776, a bill to provide for a nationally coordinated program of research, promotion, and consumer information regarding limes that is designed to expand domestic and foreign markets for limes. Mr. Emerson, the Ranking Minority Member of the Subcommittee, also made opening remarks on the legislation.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 2:50 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, July 19, 1989

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Hearing

met at 2:08 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of receiving testimony on the usefulness of the sustainable agriculture concept as a focal point for developing agricultural policies in the 1990 Farm Bill.

The following Members were present:

Mr. Brown	Mr. Roberts	Mr.
Mr. Olin	Mr. Grandy	Mr.
Mr. Volkmer	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

William A. Stiles, Jr., Subcommittee Staff Director
Rob Myers, Staff Scientist
John J. Aguirre, Minority Consultant
James R. Lyons, Staff Assistant
Jim Davis, Press Secretary
Joe Dugan, Assistant Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

Dr. Dennis B. Keeney, Director, Leopold Center for Sustainable Agriculture, Iowa State University, Ames, Iowa

Dr. I. Garth Youngberg, Executive Director, Institute for Alternative Agriculture, Inc., Greenbelt, Maryland

Dr. John E. Ikerd, Coordinator, Center for Sustainable Agricultural Systems, University of Missouri, Columbia, Missouri

Dr. Raymond R. Weil, Associate Professor, Department of Agronomy, University of Maryland, College Park, Maryland

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Wednesday, July 19, 1989
Department Operations, Research,
and Foreign Agriculture Subcommittee
Public Hearing
Review of sustainable agricultural
concepts

Chairman Brown called the meeting to order and recognized the witnesses listed on page two of these minutes for their testimony on the usefulness of the sustainable agriculture concept as a focal point for developing agricultural policies in the 1990 Farm Bill. Following their presentations, the witnesses were questioned by the Members.

During the proceedings, one recess was taken, at 3:05 p.m., to enable Members to respond to a recorded vote on the floor of the House. The following special introduction was made: Congressman Volkmer -- Dr. Ikerd.

After brief closing remarks by Mr. Brown, the meeting was adjourned at 3:16 p.m., subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, July 20, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing H.R. 2869, the Commodity Futures Improvements Act of 1989

The following Members were present.

Mr. English
Mr. Tallon
Mr. Penny
Mr. Nagle
Mr. Harris
Mr. Staggers
Mr. Sarpalius
Mr. Long
Mr. de la Garza (ex officio)
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Morrison
Mr. Gunderson
Mr. Combest
Mr. Grandy
Mr. Holloway
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Glickman
Mr. Huckaby
Mr. Jontz
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Fred Clark, Majority Associate Counsel
John E. Hogan, Minority Counsel
Alice Devine, Minority Associate Counsel
Bill Cherry, Subcommittee Staff Director
Jim McDonald, Subcommittee Consultant
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk
Jim Davis, Press Secretary
Tom Lederer, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

1. Mr. Robert D. Josserand, President, National Cattlemen's Association, Washington, D.C.
   Acc. by: Mr. Alan Sobba, Director, Tax and Credit, National Cattlemen's Association, Washington, D.C.

2. Mr. Leo Melamed, Chairman of Executive Committee and Special Counsel to the Board, Chicago Mercantile Exchange, Chicago, Illinois
   Acc. by: Mr. William J. Brodsky, President and Chief Executive Officer, Chicago Mercantile Exchange, Chicago, Illinois
   Mr. Gerrold E. Salzman, Outside Counsel, Chicago Mercantile Exchange, Chicago, Illinois

3. Mr. Robert K. Wilmouth, President, National Futures Association, Chicago, Illinois
   Acc. by: Ms. Jean Tippins, Vice President, Administration, NFA
   Mr. Dan Roth, Vice President/General Counsel/ Secretary, NFA

4. Mr. Karsten Mahlmann, Chairman, Chicago Board of Trade, Chicago, Illinois
   Acc. by: Mr. Tom Donovan, President, CBOT
   Mr. Fred Grede, Vice President, Administration, CBOT
   Mr. Scott Early, General Counsel, CBOT
   Mr. Don Andrew, Member, Executive Committee, CBOT

5. Mr. James L. Lindau, President, Minneapolis Grain Exchange, Minneapolis, Minnesota

6. Dr. Sanford J. Grossman, Princeton University, Princeton, New Jersey

7. Mr. Warren Lebeck, National Grain Trade Council, Washington, D.C.

8. Panel:

   Mr. John L. Fredrickson, Kentland Elevator and Supply, Inc., Kentland, Indiana

   Mr. Dave Danker, Buchheit Grain, Inc., Perryville, Missouri

   Mr. Ralph Weems, former President, American Soybean Association, West Point, Mississippi

   Mr. Joseph J. Kane, floor broker, Chicago Board of Trade, Chicago, Illinois

Thursday, July 20, 1989
Subcommittee on Conservation,
Credit, and Rural Development
Public Hearing
Commodity Futures Improvements
Act - H.R. 2869

Statements Submitted for the Record:

1. Mr. Daniel R. Huber, Cargill, Inc., Minneapolis, Minnesota

2. Ms. Sarah Vogel, Agriculture Commissioner, State of North Dakota

Chairman English called the meeting to order for the purpose of continuing to review H.R. 2869, a bill to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission, establish registration standards for all exchange floor traders, restrict practices which may lead to the abuse of outside customers of the marketplace, reinforce development of exchange audit trails to better enable the detection and prevention of such practices, establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations, enhance the international regulation of futures trading, regularize the process of authorizing appropriations for the Commodity Futures Trading Commission, and for other purposes. Mr. English made brief opening comments.

The witnesses listed on page 2 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The following special introductions were made: Mr. Jontz - Mr. Fredrickson; Mr. Combest - Mr. Josserand.

During the proceedings recesses were taken at 1:05 p.m., 3:00 p.m. and 4:30 p.m. to enable Members to respond to recorded votes on the House floor. At 6:20 p.m. the meeting was adjourned, to reconvene on Wednesday, July 26, to begin consideration of the legislation.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, July 25, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing H.R. 2187, the Fresh Mushroom Promotion, Research, and Consumer Information Act, and H.R. 2257, the Potato Research and Promotion Act Amendments of 1989

The following Members were present:

Mr. Hatcher
Mr. Panetta
Mr. Sarpalius
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Emerson
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Grant
Mr. Stallings
Mr. Tanner
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Julia M. Paradis, Subcommittee Staff Director
Dean Mitchell, Subcommittee Consultant
Lynn Gallagher, Minority Consultant
Fred Clark, Majority Associate Counsel
Glenda Temple, Clerk
Jim Lyons, Staff Assistant
Anita Brown, Staff Assistant
Jim Davis, Press Secretary

Witnesses:

1. Hon. Richard H. Stallings, Member of Congress from Idaho

2. Hon. Richard T. Schulze, Member of Congress from Pennsylvania

3. Dr. Kenneth C. Clayton, Acting Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Charles Brader, Director, Fruit and Vegetable Division, AMS

4. Mr. Jamie Ciarrocchi, President, American Mushroom Institute, Kennett Square, Pennsylvania
   Acc. by: Mr. Charlie Harris, Executive Director, American Mushroom Institute, Kennett Square, Pennsylvania

5. Panel:
   Mr. Dennis Zensen, Chairman, The Mushroom Council, Quincy, Florida

   Mr. Shah Kazemi, President, Monterey Mushroom, Inc., Capitola, California

6. Mr. Kirk W. Leighton, President, Camsco Produce Company, Campbell Soup Company, Camden, New Jersey

7. Mr. Michael Cranney, President, National Potato Council, Oakley, Idaho
   Acc. by: Mr. Donald J. Moschetti, Center, Colorado
   Mr. Keith Masser, Vice President, Government Relations, National Potato Council, Sacramento, Pennsylvania

8. Mr. W. Donald Dresser, Executive Vice President, United Foods, Inc., Bells, Tennessee

9. Dr. Robert B. Beelman, Professor of Food Science, Penn State University, University Park, Pennsylvania

Statements Submitted for the Record:

1. American Farm Bureau Federation, 600 Maryland Avenue, SW #800, Washington, D.C. 20024

2. Hon. Bill Emerson, Member of Congress from Missouri

3. Hon. Leon E. Panetta, Member of Congress from California

4. Hon. Charles Hatcher, Member of Congress from Georgia

Tuesday, July 25, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Public Hearing
Fresh Mushroom Promotion,
Research, and Consumer
Information Act
Potato Research and Promotion
Act Amendments
H.R. 2187; H.R. 2257

Chairman Hatcher called the meeting to order and made brief opening comments on the need to review the two promotion and research programs before the Committee--H.R. 2187, a bill to enable producers of fresh mushrooms to develop, finance, and carry out a nationally coordinated program for fresh mushroom promotion, research, and consumer information; and H.R. 2257, a bill to amend the Potato Research and Promotion Act to provide improved methods of assessment that will finance a more effective marketing research and promotion program and provide for a more effective consumer information program designed to expand markets for potatoes. Mr. Emerson, the Ranking Minority Member of the Subcommittee, and Mr. Panetta also made opening remarks on the legislation.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The following special introductions were made: Mr. Grant - Mr. Zansen; Mr. Stallings - Messrs. Cranney, Moschetti, and Masser.

During the proceedings recesses were taken at 11:00 a.m., 11:50 a.m., and 12:25 p.m. to enable Members to respond to recorded votes on the House floor. At 12:50 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, July 26, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing and Business Meeting

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing and considering Whites Creek Watershed, Mississippi, and considering H.R. 2869, the Commodity Futures Improvements Act of 1989

The following Members were present:

Mr. English
Mr. Tallon
Mr. Penny
Mr. Stallings
Mr. Nagle
Mr. Harris
Mr. Staggers
Mr. Espy
Mr. Sarpalius
Ms. Long
Mr. de la Garza
Mr. (ex officio)
Mr.

Mr. Coleman
Mr. Morrison
Mr. Gunderson
Mr. Combest
Mr. Grandy
Mr. Holloway
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Mr.

Staff present:
Dan Brinza, Counsel
Fred Clark, Majority Associate Counsel
Joe Muldoon, Majority Assistant Counsel
John Hogan, Minority Counsel
Allie Devine, Minority Associate Counsel
Bill Cherry, Subcommittee Staff Director
Jim McDonald, Subcommittee Consultant
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk
Jim Davis, Press Secretary
Chuck Hilty, Minority Staff Director

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Witnesses:

Whites Creek Watershed:

1. Mr. Galen S. Bridge, Deputy Chief for Programs, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Howard C. Tankersley, Director, Watershed Projects Division, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C.

CFTC Staff Available to Respond to Questions on H.R. 2869:

1. Mr. Robert Mackay, Chief of Staff
2. Mr. Pat Nicollette, Deputy General Counsel
3. Mr. Alan Seifert, Deputy Director, Division of Trading and Markets

Wednesday, July 26, 1989
Subcommittee on Conservation, Credit, and Rural Development
Public Hearing and Business Meeting
Whites Creek Watershed, Mississippi
Commodity Futures Improvements Act of 1989 - H.R. 2869

Chairman English called the meeting to order for the purpose of reviewing and considering the Whites Creek Watershed, Mississippi, and considering H.R. 2869, a bill to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission, establish registration standards for all exchange floor traders, restrict practices which may lead to the abuse of outside customers of the marketplace, reinforce development of exchange audit trails to better enable the detection and prevention of such practices, establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations, enhance the international regulation of futures trading, regularize the process of authorizing appropriations for the Commodity Futures Trading Commission, and for other purposes.

Mr. English made brief opening comments and recognized the Administration witness for his prepared testimony on the Whites Creek Watershed, Webster County, Mississippi. Following his presentation, the witness was questioned by the Members of the Subcommittee.

B U S I N E S S M E E T I N G

Action Taken:

-- Without objection the Whites Creek Watershed, Mississippi, was approved and forwarded to the full Committee.

-- By voice vote English-Coleman en bloc amendments adopted.

-- By record vote (11 yeas-5 nays) Tallon amendment on trading ahead approved.

-- By voice vote Tallon amendment providing penalties for felony violations adopted.

-- Without objection Long amendment reformed by Mr. English.

Wednesday, July 26, 1989
Subcommittee on Conservation, Credit, and Rural Development
Public Hearing and Business Meeting
Whites Creek Watershed, Mississippi
Commodity Futures Improvements Act of 1989 - H.R. 2869

Action Taken Continued:

-- By voice vote Long amendment, as reformed, requiring approval by CFTC of exchange emergency actions agreed to.

-- Without objection Nagle report language calling for review of actions of CBOT and CFTC in recent soybean matter approved.

-- Without objection Grandy amendment providing for GAO study of delivery points for agricultural commodity contracts agreed to.

-- By record vote (16 yeas-0 nays) H.R. 2869 ordered reported to the full Committee.

At 10:15 a.m. the Committee resolved into a business meeting. The first item on the agenda was consideration of the Whites Creek Watershed, Mississippi, which would provide for urban flood prevention and water supply storage. (See attached fact sheet for description of watershed.) Discussion occurred and without objection the project was approved and forwarded to the full Committee with a favorable recommendation in the presence of a quorum (14 Members present and voting).

The next item on the agenda was consideration of H.R. 2869, the Commodity Futures Improvements Act of 1989 (see attached copy of bill, brief explanation, and section-by-section analysis). Mr. English explained the provisions of the legislation and called the Members' attention to the attached en bloc amendments, offered by himself and Mr. Coleman. Mr. Coleman further explained the provisions of the legislation. Discussion occurred. By a voice vote the English-Coleman en bloc amendments were adopted.

Mr. Tallon offered the attached amendments en bloc. The first amendment would prohibit trading ahead of a customer and the second would increase the penalties for felony violations of the Commodity Exchange Act. (Explanations also attached.) Discussion occurred.

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Subcommittee on Conservation, Credit, and Rural Development
Public Hearing and Business Meeting
Whites Creek Watershed, Mississippi
Commodity Futures Improvements Act of 1989 - H.R. 2869

Mr. Coleman called the Committee's attention to the attached report from the Justice Department concerning criminal sanctions for abuses arising from dual trading on futures exchanges. Discussion continued and without objection the amendments were separated for consideration. A recorded vote was requested, with a sufficient number of Members supporting the request, and the vote follows:

Y E A S

1. Mr. Tallon
2. Mr. Penny
3. Mr. Nagle
4. Mr. Harris
5. Mr. Staggers
6. Mr. Espy
7. Mr. Sarpalius
8. Ms. Long
9. Mr. Grandy
10. Mr. Holloway
11. Mr. English

N A Y S

1. Mr. Stallings
2. Mr. Coleman
3. Mr. Morrison
4. Mr. Gunderson
5. Mr. Combest

Thus, by a recorded vote of 11 yeas-5 nays, the Tallon amendment on trading ahead was approved. Whereupon by a voice vote the Tallon amendment providing penalties for felony violations was adopted.

Ms. Long offered the attached amendment requiring CFTC approval of exchange emergency actions, and discussion occurred. Chairman English suggested that the amendment be reformed and report language be included to provide that the exchanges notify the Commodity Futures Trading Commission in advance of emergency actions. The Commission would have three options (1) to approve the action, (2) to disapprove the action, or (3) to do nothing due to insufficient information to make a decision. If the third alternative was taken, the Commission would be required to notify the House and Senate Committees as to why they did not have the necessary information.

Wednesday, July 26, 1989
Subcommittee on Conservation, Credit, and Rural Development
Public Hearing and Business Meeting
Whites Creek Watershed, Mississippi
Commodity Futures Improvements Act of 1989 - H.R. 2869

Discussion continued and Ms. Long stated that she did not have any objection to the suggested changes. Whereupon by a voice vote the Long amendment, as reformed, was agreed to. Staff was directed to make the necessary changes in the amendment to reflect the Subcommittee's intent.

Mr. Nagle advised that he was preparing an amendment on insider trading for full Committee consideration. In the meantime, he would offer report language (not written) dealing with the need to review actions of the Chicago Board of Trade and the Commodity Futures Trading Commission in the recent soybean matter. He stated that he was interested in looking into the impact of decisions of members of the board. Discussion occurred and without objection the report language was adopted.

Mr. Grandy offered the attached amendment providing for a GAO study of delivery points for agricultural commodity contracts. Discussion occurred and without objection the amendment was agreed to.

Mr. Tallon moved that H.R. 2869, as amended, be ordered reported to the full Committee with the recommendation that it do pass. Chairman English requested a recorded vote and directed the clerk to call the roll. The vote follows:

Y E A S

1. Mr. Tallon
2. Mr. Penny
3. Mr. Stallings
4. Mr. Nagle
5. Mr. Harris
6. Mr. Staggers (proxy to Mr. English)
7. Mr. Espy
8. Mr. Sarpalius
9. Ms. Long
10. Mr. Coleman
11. Mr. Morrison
12. Mr. Gunderson
13. Mr. Combest
14. Mr. Grandy
15. Mr. Holloway
16. Mr. English

N A Y S

None

Thus, by a roll call vote of 16 yeas-0 nays H.R. 2869, as amended, was adopted and ordered reported to the full Committee in the presence of a quorum (15 Members present and voting).

At 12:05 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

WHITES CREEK WATERSHED, MISSISSIPPI

Size and Location: 4,680 acres - Webster County

Tributary to: Little Black Creek

Sponsors: City of Eupora, Mississippi
Webster County Soil and Water Conservation District

Purposes: Urban flood prevention and water supply storage

Total Watershed Land Use:	Percent
Cropland	12
Grassland	15
Forestland	57
Idle	3
Urban and Built-up	13

Total watershed privately owned - 100%

Number of Farms: 24

Size of Farms: 166 acres

Principal Measures:

Multiple-purpose structure (flood prevention and industrial water supply)

Annualized Benefits:

	Dollars	Percent
To agricultural acreage (land and crops)	$ 700	.5
To agricultural improvements	-	-
To non agricultural improvements	169,100	99.5
Total	$169,800	100

Project Costs:

	PL-566 Funds Dollars	Pct.	Other Funds Dollars 1/	Pct.	Total Dollars
Land Treatment Measures	$ 1,700	65	$ 900	35	$ 2,600
Technical Assistance	1,200	100	0	0	1,200
Structural Measures					
Multiple-purpose	756,100	52	699,500	48	1,455,600
Project Administration	50,700	67	24,500	33	75,200
Total	$809,700	53	$724,900	47	$1,534,600

Annualized Costs:

Project Installation	$ 64,500	53	$ 57,700	47	$ 122,200
OM&R	0	0	800	100	800

Area Benefited: 430 acres

Number of Beneficiaries: Flood prevention - 34 urban properties
Adequate water supply to meet the projected needs of the City of Eupora (population 2,343).

Carrying out the project:

The estimated annual cost of operation and maintenance is $800.

Benefit-Cost Ratio: 1.4:1

The sponsors intend to use a FmHA loan.

1/ For land treatment measures, this is primarily the cost of applying land treatment measures by landowners. For structural measures, this is the cost of all required landrights plus the design and construction cost for the water supply portion of the project.

(H.R. 2869 is held in the committee files.)

execution of contract market transactions must be verifiable and must:

(1) be stated in one minute increments beginning not later than one year after enactment of the bill; and

(2) be stated in 30 second increments beginning not later than three years after enactment of the bill.

A board of trade must demonstrate to the CFTC that the board of trade's audit trail for all of the contract markets designated for such board of trade comply with the one minute and 30 second recording requirements before the CFTC can designate the board of trade as a contract market for any new contracts.

The bill will require the CFTC to issue regulations to provide a three day "cooling off" period during which a person who solicited a customer by telephone to open a futures or options account may not trade such account on behalf of the customer.

The bill will require the CFTC to continue to request the assistance of and cooperate with the appropriate Federal agencies in conducting investigations under the Commodity Exchange Act.

The bill will require the establishment of a system of contract market disciplinary committees and of a schedule of major violations of the rules of contract markets or registered

futures associations. The bill will prohibit any person found to have committed a major violation of such contract market rules from service on the governing board or a disciplinary committee of any contract market or registered futures association. The bill will also require that outside members comprise at least 20 percent of the governing boards of contract markets and registered futures associations.

The bill will require the registration of floor traders, enhance the CFTC's authority to disqualify registrants, and provide for the suspension of registration and trading privileges for the nonpayment of civil money penalties. The bill will also require that registrants attend periodic ethics training sessions.

The bill will provide for nationwide service of process and venue for parties bringing a private right of action under the Act.

The bill will authorize the CFTC to cooperate with, offer investigative assistance to, accept information from, and disclose certain information to, foreign futures authorities.

The bill will authorize appropriations for the CFTC in the amount of $40 million for fiscal year 1990 and $44.5 million for fiscal year 1991.

SECTION-BY-SECTION ANALYSIS OF H.R. 2869,

THE COMMODITY FUTURES IMPROVEMENTS ACT OF 1989

Section 1--Short title and table of contents.

Section 1 provides that the bill may be cited as the "Commodity Futures Improvements Act of 1989". It also contains the table of contents of the bill.

TITLE I--LIMITATIONS ON CERTAIN TRADING PRACTICES

Section 101--Dual trading.

Subsection (a) of section 101 will amend section 4j(1) of the Commodity Exchange Act (7 U.S.C. 6j(1)) by replacing the existing section 4j(1) with a new section 4j(1).

Paragraph (A) of the new section 4j(1) will require the Commission to issue regulations to prohibit dual trading[1] by a floor broker in any contract market in which the Commission has determined the average daily trading volume to be equal to or greater than the threshold trading level established pursuant to the new section 4j(1). For the purposes of section 4j(1), the threshold trading level is 7,000 contracts, based on a six month moving average of the number of contracts traded daily on the

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[1] "Dual trading" is commonly understood to refer to instances in which a floor broker trades for that broker's own account in a contract market the same day that the broker also executes a customer's order. The bill explicitly requires the Commission to develop a technical definition of this concept of dual trading and incorporate that definition in regulations issued under the new section 4j(1).

contract market. If the Commission determines that the prohibition against dual trading creates undesirable price volatility, unacceptable widening of bid-ask spreads, or otherwise threatens the public interest, the Commission may increase or decrease the threshold trading level for the contract market. Any action by the Commission to adjust the threshold trading level of a contract market pursuant to section 4j(1)(A) must be reported to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than 3 days after the Commission takes such action.

Paragraph (B) of the new section 4j(1) will provide that, if the Commission has not determined to prohibit dual trading in a contract market pursuant to the new section 4j(1)(C), the regulations issued by the Commission to implement section 4j(1)(A) for such contract market must--

(i) define the term 'dual trading';

(ii) specify the methodology used by the Commission to determine the average daily trading volume of contracts on a contract market;

(iii) provide for transition measures, as determined necessary by the Commission to prevent market disruption or to protect the public interest, for a contract market when the average daily trading volume on such contract market increases to or above, or decreases below, the threshold trading level;

3

(iv) provide that a floor broker may dual trade in a newly designated contract market until the average daily trading volume on such contract market has increased to or above the threshold trading level;

(v) provide for limited exceptions, as the Commission determines necessary, to the prohibition against dual trading required by the new section 4j(1)(A) so that a broker may execute spread trades for such floor broker's own account or trade for such floor broker's own account for a brief period at the opening of the market in order to settle errors in trades made by such broker on such account on a previous trading day;

(vi) provide that a floor broker affected by section 4j(1)(A) must indicate prior to the opening of trading for any given day whether such floor broker will trade solely for such broker's own account or solely for customers' accounts for the entire trading day, with limited exceptions as determined by the Commission pursuant to sections 4j(1)(A)(v) and 4j(1)(A)(vii); and

(vii) provide that a customer may designate an individual floor broker to execute such customer's orders for future delivery and trade for such broker's own account, notwithstanding the provisions of section 4j(1)(A), if such customer, not less than once annually, executes a written form designating such broker by name.

Such regulations may also provide that if the average daily

trading volume on a contract market increases to or above, or decreases below, the threshold trading level, any change in the status of dual trading otherwise required by section 4j(1)(A) may be delayed or suspended if the Commission determines that such increase or decrease is a temporary, unusual occurrence.

The new paragraph (C) of section 4j(1) essentially restates current law. It will provide that, notwithstanding paragraphs (A) and (B), the Commission must, as it determines necessary, make a determination from time to time, by rule, regulation or order, whether or not dual trading, as that term may be defined in regulations issued by the Commission, by a floor broker may be allowed in contract markets where such trading is not prohibited pursuant to paragraph (A). If the Commission determines that dual trading by a floor broker will be permitted, the Commission must further determine the terms, conditions, and circumstances under which such dual trading must be conducted. Any such determination must, at a minimum, take into account the effect of dual trading upon the liquidity of trading in each market. Nothing in section 4j(1) may be construed to prohibit the Commission from making separate determinations for different contract markets when it is warranted in the judgment of the Commission, nor may section 4j(1) be construed to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission. This paragraph reserves the discretion currently afforded to the Commission to prohibit dual trading altogether or to restrict it more than is

required under paragraphs (A) and (B).

The new paragraph (D) of section 4j(1) will require the Commission to issue an order to exempt a board of trade from the dual trading prohibitions in paragraph (A) of section 4j(1) if such board of trade can demonstrate to the Commission that:

(i) its audit trail can detect any and all instances of trading violations that the Commission determines are attributable to dual trading; and

(ii) its audit trail is fully verifiable.

In this context, fully verifiable means that the Commission can verify the information provided by the audit trail. Any order by the Commission to exempt a board of trade from the dual trading prohibition in paragraph (A) pursuant to the new paragraph (D) will not become effective until after the expiration of 90 days after the date of transmittal of a report on the Commission's determinations regarding such board of trade to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subsection (b) of section 101 will require the Commission to issue the regulations required by the new section 4j(1) of the Commodity Exchange Act (prohibiting dual trading when the trading volume is at or above the threshold trading levels set in section 4j(1)(A)) no later than 270 days after the date of enactment of the Commodity Futures Improvements Act of 1989.

Section 102--Trading among members of broker associations.

Subsection (a) of section 102 will amend section 4j of the Commodity Exchange Act (7 U.S.C. 6j) by adding a new subsection (3) which will provide that it will be unlawful, pursuant to regulations issued by the Commission,--

(A) for a member of a broker association[3], for or on behalf of any customer, to execute a transaction such that another member of the same broker association, trading for such other member's own account, or the account of the association, takes the opposite side of the transaction;

(B) for any member of a broker association to trade with another member of the same broker association, whether such brokers are trading for their own accounts, for customers, or for the account of the broker association, if such transactions in any month total more than 25 percent of the broker's total transactions; and

(C) for any member of a broker association to engage in such other practices as the Commission determines necessary to prohibit or to curb abuses and otherwise protect the interests of customers from potential trading abuses by members of broker associations.

The regulations issued by the Commission must include a

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[3] "Broker association" is commonly understood to refer to instances in which floor brokers enter into formal or informal arrangements to share profits or other aspects of their business. The bill explicitly requires the Commission to develop a technical definition of this concept of broker associations and incorporate that definition in regulations issued under the new section 4j.

definition of the term 'broker association.' Nothing in the new section 4j(3) may be construed to prohibit the Commission or contract markets from prohibiting trading by broker associations or their members, or from setting terms and conditions for such trading that are more restrictive than those set in the new section 4j(3). This preserves the current discretionary authority of the Commission to prohibit altogether, or be more restrictive of, broker association trading.

Subsection (b) of section 102 will require the Commission to issue regulations to implement the new section 4j(3) of the Commodity Exchange Act no later than 270 days after the date of enactment of the Commodity Futures Improvements Act of 1989.

Subsection (c) of section 102 will require the Commission to determine whether the public interest would best be served by placing restrictions on trading by broker associations and their members other than those provided under the bill, and whether such broker associations, or trading by such broker associations, should be prohibited. The Commission must report its determination and any recommendations by the Commission for regulatory or legislative initiatives to implement such recommendations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than 270 days after the effective date of the regulations required by section 102 of the Commodity Futures Improvements Act of 1989.

TITLE II--ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES

Section 201--Audit trails.

Subsection (a) of section 201 will amend section 4g(2) of the Commodity Exchange Act (7 U.S.C. 6g(2)) by--

(1) redesignating the existing section 4g(2) as section 4g(2)(A); and

(2) adding a new paragraph (B) that will require, in subparagraph (i), that each contract market maintain or cause to be maintained by its clearinghouse a single record that must show for each futures or options trade the transaction date, time of execution (as required by subparagraph (ii)), quantity, and, as applicable, underlying commodity, price or premium, delivery month or expiration date, whether the transaction involved a contract for future delivery or physical, put or a call, strike price, floor broker or floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, symbols indicating the buying and selling customer or option customer types and such other informatior as the Commission determines necessary. Such record shall enable the contract market to rapidly reconstruct an accurate record, as determined by the Commission, of the transactions executed on such contract market. This provision essentially codifies the existing regulatory provisions of the Commission regarding the maintenance of an audit trail.

The new subparagraph (ii) of section 4g(2)(B) will provide

that, for the purposes of subparagraph (i), the time of execution of a transaction shall be verifiable and must--

(a) be stated within an increment of no more than one minute in length, beginning not later than one year after the effective date of the Commodity Futures Improvements Act of 1989; and

(b) be stated within an increment of no more than 30 seconds in length, beginning not later than three years after the effective date of the Commodity Futures Improvements Act of 1989.

The new subparagraph (iii) of section 4g(2)(B) will require the Commission to report on the status of compliance with the standards imposed by section 4g(2)(B) and report its findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 180 days after the expiration of one year, and again after the expiration of three years, from the date of enactment of the Commodity Futures Improvements Act of 1989, as specified in clauses (a) and (b) of the new section 4g(2)(B)(ii), respectively.

The new subparagraph (iii) of section 4g(2)(B) will require the Commission to--

(a) determine whether the record required by section 4g(2)(B) has enabled the affected contract markets to rapidly reconstruct an accurate, verifiable record of the transactions executed on such contract markets, as

determined necessary by the Commission to provide for the effective enforcement of the applicable provisions of the Commodity Exchange Act and the rules or regulations thereunder;

(b) determine whether the recording and reconstruction of the time and sequence of trades can more accurately represent the real times of such trades through the use of improved technologies or other means and determine whether any regulatory or legislative changes would be necessary or appropriate to implement such improvements; and

(c) report its findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than 5 years after the effective date of the Commodity Futures Improvements Act of 1989.

Subsection (b) of section 201 will amend section 5 of the Commodity Exchange Act (7 U.S.C. 7) by adding a new paragraph (h) that will require a board of trade, as a condition of being designated as a contract market, to demonstrate that every contract market for which such board of trade is designated maintains a single record, as required by section 4g(2)(B)(i), that shows for each futures or options trade the time of execution of trades as required by the new sections 4g(2)(B)(ii)(a) and 4g(2)(B)(ii)(b) of the Commodity Exchange Act.

Section 202--Telemarketing fraud.

Subsection (a) of section 202 will amend the Commodity Exchange Act by adding after section 4p (7 U.S.C. 6p) the new section 4q that will require the Commission to issue regulations to prohibit any person, who has solicited a customer by telephone to open a futures or options account, from entering any orders for such account for three days after the customer signed any contract opening the account and a separate risk disclosure statement. Such regulations shall not apply to--

(1) accounts opened solely for the purpose of making bona fide hedging transactions, as such term is defined by the Commission, consistent with the purposes of the Commodity Exchange Act;

(2) transactions that transfer positions in an existing futures or options account to another futures commission merchant or such other person as determined necessary by the Commission; and

(3) accounts, other than the first account, opened by a customer with the same futures commission merchant.

Subsection (b) of section 202 will require the Commission to issue the regulations required by the new section 4q of the Commodity Exchange Act no later than 180 days after the date of enactment of the Commodity Futures Improvements Act of 1989.

Section 203--Undercover operations and enforcement.

Section 203 will amend section 8(a) of the Commodity

Exchange Act (7 U.S.C. 12(a)) by:

(a) redesignating the existing section 8(a) as section 8(a)(1); and

(b) inserting at the end of section 8(a)(1) a new section 8(a)(2) which will provide that in conducting investigations authorized by section 8(a), or any other provision of the Commodity Exchange Act, the Commission must continue, as the Commission determines necessary, to request the assistance of and cooperate with the appropriate Federal agencies in the conduct of such investigations, including undercover operations by such Federal agencies.

Section 204--Self regulatory organization disciplinary committees and governing boards.

Subsection (a) of section 204 will amend section 8c of the Commodity Exchange Act (7 U.S.C. 12c) by adding two new subsections to section 8c.

The new subsection (5) of section 8c will require the Commission to issue regulations to require the establishment of a system of contract market disciplinary committees. Under such system, each board of trade which has been designated as a contract market must--

(A) establish one or more disciplinary committees which will be authorized by the board of trade to determine whether violations of the rules of the board of trade have been committed, to accept offers of settlement, and to

impose appropriate penalties;

(B) provide that disciplinary committees established pursuant to the new paragraph 8c(5)(A) be composed of members of the board of trade, or staff members of the board of trade, such that the committee, or any hearing panel formed by the committee to conduct disciplinary hearings, is composed of a majority of persons who are of a different trading status than the respondent; and

(C) provide that a hearing panel formed by the committee to conduct disciplinary hearings may be composed of fewer than the total number of members of the committee.

For the purposes of the new section 8c(5)(B), a disciplinary committee member's trading status will be determined by whether such member is a: (1) floor broker or floor trader, (2) member of the board of trade other than a floor broker or floor trader, or (3) staff member of the board of trade.

The new subsection (6)(A) of section 8c will require the Commission to issue regulations to require each contract market to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of the contract market. The regulations issued by the Commission pursuant to the new subsection (6) of section 8c must prohibit any individual found to have committed a major violation of any rule within the disciplinary jurisdiction of a contract market from service on the governing board of any contract market or registered futures association, or on any disciplinary committee

thereof, for a period of time to be determined by the Commission.

Subsection (b) of section 204 will amend section 17 of the Commodity Exchange Act (7 U.S.C. 21) by adding a new subsection (r) which will require the Commission to issue regulations requiring each registered futures association to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such registered futures association. The regulations issued by the Commission pursuant to the new subsection (r) must prohibit any member of a registered futures association found to have committed a major violation of any rule within the disciplinary jurisdiction of the registered futures association from service on the governing board of any registered futures association or contract market, or on any disciplinary committee thereof, for a period of time to be determined by the Commission.

Subsection (c)(1) of section 204 will amend section 5a of the Commodity Exchange Act (7 U.S.C. 7a) by adding a new paragraph (13) that will require each contract market to ensure that outside members, as defined in regulations issued by the Commission, comprise at least 20 percent of the contract market's governing board. Subsection (c)(2) of section 204 will amend section 17(b) of the Commodity Exchange Act (7 U.S.C. 21) by adding at the end a new paragraph (11) that will require that an applicant association must not be registered as a futures association unless the Commission finds, under standards established by the Commission, that at least 20 percent of the

members of the governing board of the association are outside members, as defined in regulations issued by the Commission.

Subsection (d) of section 204 will require the Commission to issue the regulations required by the new sections 5a(13), 8c(5), 8c(6), 17(b)(11) and 17(r) of the Commodity Exchange Act, as added by section 204, no later than 180 days after the effective date of the Commodity Futures Improvements Act of 1989.

Section 205--Required registration of floor traders.

Subsection (a) of section 205 will amend section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. section 2(a)(1)(A)) to define the words 'floor trader' to mean any person who, in or surrounding any 'pit', 'ring', 'post', or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell solely for such person's own account any commodity for future delivery on or subject to the rules of any contract market.

Subsection (b) of section 205 will amend section 4e of the Commodity Exchange Act (7 U.S.C. section 6e) to provide that it will be unlawful for any person to act as a floor trader in executing purchases and sales, or as a floor broker in executing any orders for the purchase or sale, of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person has registered, under the Commodity Exchange Act, with the Commission as such floor trader or floor

broker and such registration has not expired nor been suspended nor revoked. The current section 4e makes it unlawful for floor brokers to trade without first registering with the Commission. Section 205(b) of the bill will make it unlawful for floor traders, as well as floor brokers, to trade without such registration.

Subsection (c) of section 205 will amend section 4f(1) of the Commodity Exchange Act (7 U.S.C. section 6f(1)) to require that any person desiring to register as a floor trader will be registered upon application to the Commission.[3]

Subsection (d) of section 205 will amend section 4g(1) of the Commodity Exchange Act (7 U.S.C. 6g (1)) to require that every person registered as a floor trader must make such reports as are required by the Commission regarding the transactions and positions of such person; must keep books and records pertaining to such transactions and positions in such form and manner and for such period as may be required by the Commission; and shall keep such books and records open to inspection by any representative of the Commission or the United States Department of Justice. Currently, section 4g(1) makes these same reporting requirements applicable to every persons registered as a futures

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[3] Section 4f(1) currently requires that any person desiring to register as a futures commission merchant, introducing broker, or floor broker will be registered upon application to the Commission. Section 4f(1) provides that the application for registration must be made in the form and manner prescribed by the Commission, and provides for the expiration and renewal of such registrations.

commission merchant, introducing broker, or floor broker.

Subsection (e)(1) of section 205 will amend section 6d(1) of the Commodity Exchange Act (7 U.S.C. section 13a-2(1)) to include floor traders among those persons against whom a State is not authorized to bring an action under the Commodity Exchange Act. Currently the persons against whom a State is not authorized to bring such action include a contract market, clearinghouse, or floor broker. Similarly, subsection (e)(2) of section 205 will amend section 6d(8)(A) of the Commodity Exchange Act (7 U.S.C. section 13a-2(8)(A)) to include floor traders among those persons against whom an authorized State official is prohibited from proceeding in a State court for an alleged violation of any antifraud provision of the Commodity Exchange Act, or any antifraud rule, regulation, or order issued pursuant to the Commodity Exchange Act.

Subsection (f) of section 205 will amend section 8a(1) of the Commodity Exchange Act (7 U.S.C. section 12a(1)) to authorize the Commission to register floor traders upon application in accordance with rules and regulations and in the form and manner prescribed by the Commission.[4]

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[4] Currently, section 8a(1) authorizes the Commission to register futures commission merchants, associated persons of futures commission merchants, introducing brokers, associated persons of introducing brokers, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, and floor brokers. Section 8a(1) also authorizes (1) the fingerprinting of applicants and associated persons of such applicants, (2) the submission of such fingerprints to the Attorney General, (3) the establishment of reasonable fees and charges for registrations, and (4) that the Commission may grant

Subsection (g)(1) of section 205 will amend section 8a(2)(C)(i) of the Commodity Exchange Act (7 U.S.C. section 12a(2)(C)(i)) to authorize the Commission to refuse to register, to register conditionally, to suspend or to revoke the registration of any person if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as a floor broker.[5]

Subsection (g)(2) of section 205 will amend section 8a(2)(D)(ii) of the Commodity Exchange Act (7 U.S.C. section 12a(2)(D)(ii)) to authorize the Commission to refuse to register, to register conditionally, to suspend or to revoke the registration of any person if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that arises out of the conduct of the business of a floor trader.[6]

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a temporary license to any applicant for registration for up to six months.

[5] Section 8a(2)(C)(i) of the Commodity Exchange Act currently authorizes the Commission to refuse to register, to register conditionally, to suspend or to revoke the registration of any person if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under the Commodity Exchange Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company, or affiliated person or employee of any of the foregoing.

[6] Currently section 8a(2)(D)(ii) of the Commodity Exchange Act authorizes the Commission to refuse to register, to register conditionally, to suspend or to revoke the registration of any person if such person has been convicted within ten years

Subsection (g)(3) of section 205 will amend section 8a(3)(E)(ii) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(E)(ii))[7] to authorize the Commission to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that such person was convicted of any misdemeanor which arises out of the conduct of the business of a floor trader.[8]

Subsection (h) of section 205 will require the Commission to issue any regulations necessary to implement the provisions of section 205 no later than 180 days after the date of enactment of the Commodity Futures Improvements Act of 1989.

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preceding the filing of the application for registration or at any time thereafter of any felony that arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under the Commodity Exchange Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company, or an affiliated person or employee of any of the foregoing.

[7] Section 8a(3)(E) is also amended in section 206(g).

[8] Currently section 8a(3)(E)(ii) of the Commodity Exchange Act authorizes the Commission to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that such person was convicted within ten years preceding the filing of the application for registration or at any time thereafter of any misdemeanor which arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under the Commodity Exchange Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company, or an affiliated person or employee of any of the foregoing.

Section 206--Enhancement of registration requirements.

Subsections (a) through (e) of section 206 will make various amendments to section 8a(2) of the Commodity Exchange Act (7 U.S.C. 12a). Section 8a(2) of the Act currently outlines the conditions under which the Commission is authorized to refuse to register, to register conditionally, or to suspend or place restrictions upon the registration of, any person and (with such a hearing as may be appropriate) to revoke the registration of any person.

Subsection (a) of section 206 will amend section 8a(2)(C) of the Commodity Exchange Act to provide that a person's registration may not be revoked solely on the basis of an order, judgment or decree which is not deemed to constitute a disqualification from registration by the regulatory agency which initiated the injunctive action. Subsection (a) will also authorize the Commission to refuse, suspend, restrict or revoke a person's registration pursuant to section 8a(2) if such person is temporarily or permanently enjoined from engaging in or continuing any activity and the Commission determines that such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gambling or deception of customers.

Subsection (b) of section 206 will amend section 8a(2)(D)(iii) of the Commodity Exchange Act (7 U.S.C.

12a(2)(D)(iii)) to authorize the Commission to refuse, suspend, restrict or revoke a person's registration pursuant to section 8a(2), in addition to the bases in current law, if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that involves deception of customers. Currently section 8a(2)(D)(iii) authorizes the Commission to so act if such person has been convicted of any felony that involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, gambling, or bribery.

Subsection (c) of section 206 will amend section 8a(2)(D)(iv) of the Commodity Exchange Act (7 U.S.C. 12a(2)(D)(iv)) to authorize the Commission to refuse, suspend, restrict or revoke a person's registration pursuant to section 8a(2), in addition to the bases in current law, if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that involves the violation of section 371 (conspiracy), 1001 (false statements), 1503 (obstruction of justice), 1623 (perjury), 1961-1963 (racketeering), or 2314 (interstate transportation of stolen property) of title 18 of the U.S. Code governing crimes and criminal procedure, and sections 7201 or 7206 (tax evasion) of title 26 of the U.S. Code, the Internal Revenue Code.

Subsection (d) of section 206 will amend section

8a(2)(E)(iv) of the Commodity Exchange Act (7 U.S.C. 12a(2)(E)(iv)) to provide that the Commission may act under section 8a(2) against a person who has been found to have violated the Commodity Exchange Act in a proceeding brought by the appropriate governmental body. Currently section 8a(2)(E) requires that such finding be made by a court of competent jurisdiction or the appropriate governmental body. Subsection (d) of section 206 will also amend section 8a(2)(E)(iv) to add to the list of grounds on which the Commission may act against a person under section 8a(2) the violation of the Racketeer Influenced Corrupt Organizations Act or the deception of customers by such person.

Subsection (e) of section 206 will amend section 8a(2)(G) of the Commodity Exchange Act (7 U.S.C. 12a(2)(G)) to expand the grounds under which the Commission may act against a person under section 8a(2) to include the willful making of any materially false statement or omission to state any material fact regarding any disqualification from registration under section 8a(2) or 8a(3) of the Act. Currently section 8a(2) of the Act disqualifies from registration any person who willfully makes any false or misleading statement or omitted to state any material fact in a registration application with respect to the matters set forth in section 8a(2)(A) through (F) of the Act.

Subsections (f) through (k) of section 206 will make various amendments to section 8a(3) of the Commodity Exchange Act (7 U.S.C. 12a(3)). Section 8a(3) of the Act currently outlines the

conditions under which the Commission is authorized to refuse to register or to register conditionally any person who is found, after opportunity for hearing, to have violated certain laws, regulations or orders, or to have committed other acts specified in section 8a(3).

Subsection (f) of section 206 will amend section 8a(3)(D) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(D)). Currently section 8a(3)(D) authorizes the Commission to disqualify from registration persons convicted, within ten years prior to the filing of a registration application, of felonies other than the types specified in section 8a(2)(D), as well as persons convicted of 8a(2)(D) type felonies more than ten years preceding the filing of an application. Section 206(e) of the bill will include instances when a person pleads guilty to, as well as actual convictions of, the named felonies as grounds for disqualification, and eliminate the ten year limit on felony convictions other than the type specified in section 8a(2).

Subsection (g) of section 206 will amend section 8a(3)(E) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(E)). Section 8a(3)(E) authorizes the Commission to disqualify from registration persons convicted, within ten years prior to the filing of a registration application, of certain serious misdemeanors enumerated in section 8a(3)(E). Section 206(g) of the bill will eliminate the ten year time limit and include instances when a person pleads guilty to, as well as actual convictions of, the named misdemeanors as grounds for

disqualification. Section 206(g) will also add to the list of serious misdemeanors under section 8a(3)(E) those involving deception of customers, moral turpitude or conduct inconsistent with just and equitable principles of trade, or the violation of section 371 (conspiracy), of title 18 of the U.S. Code governing crimes and criminal procedure, and sections 7203, 7204, 7205, or 7207 (tax evasion) of title 26 of the U.S. Code, the Internal Revenue Code.

Subsection (h) of section 206 will amend section 8a(3)(G) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(G)). Section 8a(3)(G) authorizes the Commission to disqualify from registration a person who willfully makes any materially false or misleading statement or who willfully omits to state any material fact in such person's application for registration, in any report required to be filed with the Commission, or in any proceeding before the Commission. Section 206(h) of the bill will make clear that the Commission is similarly authorized to disqualify from registration any person who makes such false and misleading statements or omissions in (1) updates to such a person's registration application, or (2) the course of a disqualification proceeding conducted under the Act.

Subsection (i) of section 206 will amend section 8a(3)(H) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(H)). Section 8a(3)(H) authorizes the Commission to disqualify from registration a person who pleads nolo contendere to criminal charges of felonious conduct, or who has been convicted in a

state court or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction. Section 206(i) of the bill will amend section 8a(3)(H) to include convictions in United States military courts as those convictions potentially disqualifying a person from registration.

Subsection (j) of section 206 will amend section 8a(3)(J) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(J)). Section 8a(3)(J) authorizes the Commission to disqualify from registration a person who is subject to an outstanding order denying, suspending, or expelling such person from membership in a contract market, a registered futures association, or any other self-regulatory organization, or barring or suspending such person from being associated with any member or members of such contract market, registered futures association or self-regulatory organization. Section 206(j) of the bill will amend section 8a(3)(J) to include as authorized disqualifications from registration denials, bars, suspensions and expulsions from foreign regulatory organizations which the Commission has recognized as having a comparable regulatory program.

Subsection (k) of section 206 will amend section 8a(3)(K)(i) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(K)(i)). Section 8a(3)(K)(i) authorizes the Commission to disqualify from registration a person who has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any

Federal or State agency or other governmental body is a party, to have violated any statute, rule, regulation or order thereunder which involves a serious offense such as embezzlement, theft, extortion, fraud and the like. Section 206 of the bill will amend section 8a(3)(K)(i) to include deception of customers or conduct inconsistent with just and equitable principles of trade among the grounds for which the Commission is authorized to disqualify a person from registration.

Section 207--Enforcement of civil money penalties.

Section 207 will replace the existing section 6(d) of the Commodity Exchange Act (7 U.S.C. 9a). The new section 6(d)(1) will provide that, in determining the amount of the civil money penalty assessed under section 6(b), the Commission must consider the appropriateness of such penalty to the gravity of the violation. This amendment will eliminate the existing requirement that the Commission consider a wrongdoer's financial circumstances when assessing a civil money penalty.

The new section 6(d)(2) will provide that unless the person against whom a civil money penalty is assessed under section 6(b) shows to the satisfaction of the Commission within 15 days from the expiration of the period allowed for payment of such penalty that either an appeal as authorized by section 6(b) has been taken or payment of the full amount of the penalty then due has been made, at the end of such 15 day period and until such person shows to the satisfaction of the Commission that payment of such

amount with interest thereon to date of payment has been made: (A) such person shall be prohibited from trading on all contract markets and (B) if such person is registered with the Commission, such registration shall be suspended. In effect, this section will provide for the automatic suspension of a person's registration and the prohibition against trading on all exchanges by such person for failure to pay a civil money penalty to the Commission when due.

The new section 6(d)(3) will provide that, if a person against whom a money penalty is assessed under section 6(b) takes an appeal and if the Commission prevails or the appeal is dismissed, unless such person shows to the satisfaction of the Commission that payment of the full amount of the penalty then due has been made by the end of 30 days from the date of judgment on the appeal: (A) such person will be prohibited from trading on all contract markets and (B) if such person is registered with the Commission, such registration will be suspended. If the person upon whom the money penalty has been imposed fails to pay such penalty after the lapse of the period allowed for appeal or after the affirmance of such penalty, the Commission may refer the matter to the Attorney General who must recover such penalty by action in the appropriate United States district court.

Section 208--Ethics training for registrants.

Subsection (a) of section 208 will amend section 4p of the Commodity Exchange Act (7 U.S.C. 6p) by redesignating the

existing section 4p as section 4p(1).

Subsection (b) of section 208 will add a new section 4p(2) to the Commodity Exchange Act which will require the Commission to issue regulations to require new registrants, within six months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under the Commodity Exchange Act, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable Federal or State law, rule or regulation.

Subsection (c) of section 208 will require the Commission to issue the regulations required by the new section 4p(2) of the Commodity Exchange Act no later than 180 days after the date of enactment of the Commodity Futures Improvements Act of 1989.

Section 209--Nationwide service of process and venue.

Section 209 will amend section 22(c) of the Commodity Exchange Act (7 U.S.C. 25(c)) by adding a new sentence at the end thereof to provide that any action brought under section 22(a) may be brought in any district wherein the defendant is found or is an inhabitant or transacts business, or in the district wherein any act or transaction constituting the violation occurred, and process in such action may be served in any

district of which the defendant is an inhabitant or wherever the defendant may be found.[9]

TITLE III--ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

Section 301--Definition of foreign futures authority.

Section 301 will amend section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)) to define the term 'foreign futures authority' to mean any foreign government, or any department, agency, governmental body or regulatory organization empowered by a foreign government to administer or enforce laws, rules or regulations as they relate to futures or options matters, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce laws, rules or regulations as they relate to futures or options matters.

Section 302--Subpoena authority.

Section 302 will amend section 6(b) of the Commodity Exchange Act (7 U.S.C. 15) to provide that, for the purposes of any action taken under the new section 12(f) of the Commodity Exchange Act, as proposed to be added by section 303 of the bill,

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[9] Section 22(c) currently provides that the United States district courts shall have exclusive jurisdiction of actions brought under section 22 of the Commodity Exchange Act. Any such action must be brought within two years after the date the cause of action accrued.

any member of the Commission or any administrative law judge or other officer designated by the Commission may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry.

Section 303--Cooperation with foreign futures authorities.

Section 303 will amend section 12(a) of the Commodity Exchange Act (7 U.S.C. 16(a)) to provide that the Commission may cooperate with any foreign futures authority, or any department or agency of a foreign government or political subdivision thereof.[10]

Section 304--Investigative assistance to foreign futures authorities

Section 304 will add a new subsection (f) to section 12 of the Commodity Exchange Act (7 U.S.C. 16) that will authorize the Commission, on request from a foreign futures authority, in the Commission's discretion, to provide assistance in accordance with section 12 of the Commodity Exchange Act if the requesting authority states that the requesting authority is conducting an investigation that the requesting authority deems necessary to

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[10] Section 12(a) currently provides that the Commission may cooperate with any Department or Agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, or any person.

determine whether any person has violated, is violating, or is about to violate any laws, rules or regulations relating to futures or options matters that the requesting authority administers or enforces. The Commission may conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States. In deciding whether to provide assistance under this section, the Commission must consider (1) whether the requesting authority has agreed to provide reciprocal assistance to the Commission in futures and options matters; and (2) whether compliance with the request would prejudice the public interest of the United States. The new section 12(f) will also provide that, notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign futures authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to this section or in providing any other assistance to a foreign futures authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.

Section 305--Disclosure of information received from foreign futures authorities.

Section 305 of the bill will amend section 8 of the Commodity Exchange Act (7 U.S.C. 12) by adding a new sentence at the end of subsection 8(a)(1) of the Act, as redesignated by section 203 of the bill, which will provide that the Commission may not be compelled to disclose any information or data obtained by the Commission from a foreign futures authority if the foreign futures authority has in good faith represented to the Commission that such disclosures would be contrary to the laws of the foreign country from which it was obtained; however, nothing in subsection 8(a) of the Commodity Exchange Act may prevent the Commission from disclosing publicly any information or data obtained by the Commission from a foreign futures authority when such disclosure is made in connection with a congressional proceeding, an administrative or judicial proceeding commenced by the United States or the Commission, in any receivership proceeding commenced by the United States or the Commission, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code.

Section 305 will also amend section 8(b) of the Commodity Exchange Act to provide that nothing in section 8(b) will apply to the disclosure of data or information obtained by the Commission from a foreign futures authority. Section 8(b) provides that the Commission may disclose publicly any data or information that would separately disclose the market positions,

business transactions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding or with certain enumerated administrative or judicial proceedings.

Section 306--Disclosure of information to foreign futures authorities.

Section 306 of the bill will amend section 8(e) of the Commodity Exchange Act (7 U.S.C. 12(e)) to provide that the Commission may, upon request, furnish to a foreign futures authority any information in the possession of the Commission obtained in connection with the administration of the Commodity Exchange Act. Section 306 will also prohibit the Commission from furnishing any information to a foreign futures authority unless the Commission is convinced that the information will not be disclosed by such foreign futures authority except in certain adjudicatory proceedings to which such foreign futures authority is a party.

TITLE IV. AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATE

Section 401--Authorization of appropriations.

Section 401 will amend section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) to authorize to be appropriated to carry out the Commodity Exchange Act--

(1) $40,000,000 for fiscal year 1990; and

(2) $44,500,000 for fiscal year 1991.

Section 402--Effective date.

Section 402 will provide that the provisions of, and amendments made by, the bill will be effective upon enactment of the Commodity Futures Improvements Act of 1989.

EN BLOC AMENDMENT TO H.R. 2869

OFFERED BY MR. ENGLISH

1. On page 3, line 14, strike all beginning with "However" through "market." on line 19 and insert the following:

"The Commission may provide for increases or decreases in the threshold trading level for specific contract markets if, in the judgement of the Commission, such a change is warranted. In determining whether such a change is warranted, the Commission shall consider the effects of this paragraph on the liquidity of the contract market, price volatility, bid-ask spreads, and the public interest.".

2. On page 4, line 21, strike all from "so that" through page 5, line 2 and insert the following:

"with respect to spread trades and trades to correct errors;".

3. On page 5, line 5 strike "day" and insert "trading session".

4. On page 5, line 7 strike "day" and insert "trading session".

5. On page 6, strike line 17 through page 7, line 9 and insert the following:

"'(D) The Commission shall issue an order to exempt a contract market from the provisions of paragraph (A) if the applicable board of trade can demonstrate to the Commission that the surveillance systems and procedures, including but not limited to the audit trail, for that contract market (i) can detect those instances of trading violations which the Commission determines to be attributable to dual trading, and (ii) are verifiable. The Commission shall approve or deny any application by a board of trade for such an order no later than 60 days after receipt of the application. The Commission shall report the

issuance of any such order to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than 3 days after the issuance of such order.'.

"(b) REGULATIONS.--(1) The Commission shall issue the regulations required by section 4j(1)(B) of the Commodity Exchange Act no later than 270 days after the effective date of this Act. The Commission shall issue regulations to implement the provisions of section 4j(1)(D) of the Commodity Exchange Act no later than 240 days after the date of enactment of this Act.

"(2) If, no later than 270 days after the date of enactment of this Act, a board of trade submits an application to the Commission for an order for a contract market pursuant to section 4j(1)(D) of the Commodity Exchange Act, the Commission may, pending the completion of its review of such application, temporarily waive the application of the provisions of section 4j(1)(A) of the Commodity Exchange Act to that contract market if the Commission determines that there is a likelihood that the contract market meets the conditions of section 4j(1)(A) of the Commodity Exchange Act.".

6. On page 8, line 12, after "association'" insert "and may provide for exceptions from the provisions of this subsection in the case of trades executed through trading systems where the identity of the opposite broker is unknown at the time of the trade".

7. On page 12, strike lines 2 through 26 and insert the following:

"Section 17 of the Commodity Exchange Act (7 U.S.C. 6p), is amended by adding the following:

"'(s) Each futures association registered under this section shall, subject to the approval of the Commission pursuant to subsection (j), adopt a rule specifying the factors it will consider in determining whether to issue a summary member responsibility action or other disciplinary action to require a member to adopt special supervisory procedures relating to telephone solicitations for new futures or options customer accounts. Such procedures shall require at a minimum that, with respect to an individual with no previous futures or options trading experience who was solicited by telephone, the member may not enter any order for such individual for a period of not less than three days after the individual signs the required acknowledgement of receipt of the applicable risk disclosure statement.'."

8. On page 14, line 18, after "other than" insert "a member who acts primarily as".

9. On page 15, line 8 strike "at the end" and insert "after subsection (q)".

10. On page 15, line 22 strike "PUBLIC" and insert "OUTSIDE".

11. On page 24, line 6 after "prohibited" insert "automatically".

12. On page 24, line 9 after "pended" insert "automatically".

13. On page 24, line 16 after "prohibited" insert "automatically".

14. On page 24, line 18 after "suspended" insert "automatically".

AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE ROBIN TALLON

To prohibit trading ahead of a customer

On page 9, after line 8, insert the following new section:

SEC. 103. TRADING AHEAD.

(a) Prohibition.--Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by--

(1) striking "or" following the semicolon in clause (C);

(2) striking the period following clause (D), and inserting "; or"; and

(3) inserting after clause (D) a new clause (E) to read as follows:

"(E) to trade ahead of such order or contract.".

BRIEF EXPLANATION

OF AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE ROBIN TALLON

To prohibit trading ahead of a customer

The amendment will make it unlawful to trade ahead of a customer order and, by reference in section 9(b) of the Commodity Exchange Act, provide that a knowing violation of the prohibition against trading ahead will be a felony punishable by a fine of up to $500,000 per person ($100,000 for any person who is an individual) and imprisonment for up to 5 years.

AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE ROBIN TALLON

To increase the penalties for felony violations of the Commodity Exchange Act

On page 26, after line 7, insert the following new section:

SEC. 210. PENALTIES FOR FELONY VIOLATIONS.

Section 9 of the Commodity Exchange Act (7 U.S.C. 13(b)) is amended:

(1) in subsection (a) by--

(a) striking "$500,000" and inserting "$1,000,000"; and

(b) striking "$100,000" and inserting "$500,000".

(2) in subsection (b) by--

(a) striking "$500,000" and inserting "$1,000,000"; and

(b) striking "$100,000" and inserting "$500,000".

(3) in subsection (d) by striking "$100,000" and inserting "$500,000".

(4) in subsection (e) by striking "$100,000" and inserting "$500,000".

BRIEF EXPLANATION

OF AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE ROBIN TALLON

To increase the penalties for felony violations of the Commodity Exchange Act

The amendment will increase the fines for felony violations of the Commodity Exchange Act, as provided for in section 9 of the Act, from a maximum of $500,000 ($100,000 for any person who is an individual), to a maximum of $1,000,000 ($500,000 for any individual), plus the costs of prosecution.

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

JUL 25 199

The Honorable Glenn English
Chairman, Subcommittee on Conservation,
Credit and Rural Development
Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Department has been advised by your staff that in connection with reauthorization legislation for the Commodity Futures Trading Commission the Subcommittee is considering a proposal to enact criminal sanctions for an abuse arising from dual trading on futures exchanges. As we understand the proposal, "front running," in which a broker trades for his own account ahead of his customers, would be prohibited specifically and a knowing violation of that prohibition would be punishable as a felony.

The Department has reviewed this proposal and has determined that the existing antifraud provisions of the Commodity Exchange Act coupled with the mail and wire fraud provisions of Title 18 provide a sufficient arsenal against futures trading abuses deserving criminal prosecution. Absent some showing that these statutes cannot effectively address front running or other such abuses, we believe the proposed legislation is not warranted.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Carol T. Crawford

Carol T. Crawford
Assistant Attorney General

AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE JILL LONG

To require CFTC approval of exchange emergency actions

On page 26, after line 7, insert the following new section:

SEC. 210. EXCHANGE EMERGENCY ACTIONS.

(a) Prior Commission Approval Required.--Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by--

(1) redesignating paragraph (12) as paragraph (12)(A); and

(2) striking the last two sentences of paragraph (12)(A), as redesignated by this section; and

(3) inserting the following:

"(B) submit to the Commission for approval any emergency rule that such contract market proposes to adopt, along with a complete explanation of the emergency involved. The Commission shall issue regulations specifying the terms and conditions under which a contract market may, in an emergency as defined by the Commission, submit to the Commission and request that the Commission approve and make immediately effective any (i) rule limiting trading to liquidation only, (ii) rule ordering the liquidation of contracts, the fixing of a settlement price or the reduction in positions, (iii) rule suspending trading, (iv) rule extending or shortening the expiration date for trading in contracts, and (v) such other rules as the Commission determines necessary. The Commission is authorized to approve and make immediately effective such emergency rules notwithstanding any of

the requirements of paragraph (12)(A).".

(b) Regulations.--The Commission shall issue regulations to implement section 5a(12)(B) of the Commodity Exchange Act no later than ninety days after the date of enactment of this Act. During the period between the effective date of this Act and the effective date of such regulations, the current regulations governing contract market emergency rules shall remain effective.

BRIEF EXPLANATION

OF AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE JILL LONG

To require CFTC approval of exchange emergency actions

The amendment will require that contract markets submit to the Commission for prior approval any emergency rule proposed to be adopted by such contract market. The emergency rules which must be submitted to the Commission for approval include (i) rules limiting trading to liquidation only, (ii) rules ordering the liquidation of contracts, the fixing of a settlement price or the reduction in positions, (iii) rules suspending trading, (iv) rules extending or shortening the expiration date for trading in contracts, and (v) such other rules as the Commission determines necessary.

Amendment No. ____ to H.R. 2187

Offered by Mr. Grandy

On page 26, after line 8, insert the following new section:

"Sec. 210. G.A.O. Study of Delivery Points For Agricultural Commodity Contracts.

(a) The Comptroller General of the United States shall conduct a study of the provision for, and functioning of, delivery points contained in contract markets for future delivery of agricultural commodities, of such grade or grades, at such point or points and at such quality and locational price differentials that the objectives of section 5a(10) of the Commodity Exchange Act are being achieved. The study shall examine such issues as, among others, whether the objectives of the Act relative to delivery points need to be revised; whether the availability and adequacy of storage facilities for agricultural commodities at delivery points affect prices or market congestion; whether the number, accessibility, and volume of storage at delivery points in a contract contribute to consistency and reasonableness in price discovery in the commodity contract market, and such other issues relating to delivery points as the Comptroller determines relevant to the improvement of contract markets for agricultural commodities.

(b) Not later than one year after the date of enactment of this Act, the Comptroller shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection (a), together with any appropriate recommendations.

~~PARLIAMENTARY INQUIRY~~ STATEMENT OF MR. GRANDY

Mr. Chairman, the recent events in the soybean futures market brought to light the immense power which some large trading firms exert over the market. It is also these firms which are the principal processors and exporters of soybean products.

I, and others, believe that these companies are also major beneficiaries of any promotional efforts which go on in their commodity areas, whether they be on the state or national level. They recognize increased income from domestic and export sales of the commodity which they control and the derivative products of those commodities.

The House Agriculture Committee has before it a bill, H.R. 2209, which would establish a national soybean promotion program similar to that existing for beef, dairy, pork, cotton, watermelons, and other agricultural products. As that bill is currently written, only the producer of soybeans, at the first point of sale would be required to pay a check-off fee.

The question to be considered is why the large buyers and users of soybeans, including those who demand delivery on settlement of their futures contracts, and who benefit from promotional activities should not also pay some assessment into the promotion fund. I had intended to offer an amendment to the bill before the subcommittee today, which would impose an assessment on those individuals demanding delivery on settlement of their futures contracts. I have, however, come to the conclusion that under proper parliamentary procedure and House rules, such an amendment would not be germane and H.R. 2869 would not be the proper vehicle for such a program. The actual soybean promotion bill, H.R. 2209, appears to be a better vehicle.

I then considered offering an amendment to establish a formal procedure by which the exchanges would cooperate with USDA and any potential national promotion board which may be established for a commodity traded on the futures exchanges, but in consideration of how well the exchanges have cooperated with the pork and beef programs already in existence, I also concluded such a formal procedure may be premature and unnecessary.

~~Would the Chairman agree with my conclusions?~~

I ~~request that this statement~~ be included in ~~the record.~~

BRIEF EXPLANATION OF H.R. 2869

THE COMMODITY FUTURES IMPROVEMENTS ACT OF 1989

H.R. 2869 will amend the Commodity Exchange Act (Act) to prohibit dual trading by a floor broker in any contract market in which the Commodity Futures Trading Commission (CFTC) has determined the average daily trading volume to be equal to or greater than a threshold trading level. The bill will establish the threshold trading level at 7,000 contracts, and will provide that the CFTC may increase or decrease the threshold trading level if it determines that the prohibition against dual trading creates undesirable price volatility, unacceptable widening of bid-ask spreads, or otherwise threatens the public interest.

The CFTC must issue an order exempting a board of trade from the dual trading prohibition if such board of trade can demonstrate that it's audit trail (1) can detect any and all instances of trading violations determined by the CFTC to be attributable to dual trading, and (2) is fully verifiable.

The bill will also limit trading among members of broker associations.

The bill will require each contract market to maintain an audit trail including such information as the CFTC determines necessary to rapidly reconstruct an accurate record of the transactions executed on such contract market. The time of

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, July 27, 1989

(Sub) Committee: Livestock, Dairy, and Poultry

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing H.R. 799, the Scrapie Eradication Act

The following Members were present:

Mr. Stenholm	Mr. Gunderson	Mr.
Mr. Olin	Mr. Lewis	Mr.
Mr. Campbell	Mr. Smith	Mr.
Mr. Johnson	Mr. Walsh	Mr.
Mr. Harris	Mr.	Mr.
Mr. Volkmer	Mr.	Mr.
Mr. Penny	Mr.	Mr.
Mr. Long	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Dan Waggoner, Subcommittee Staff Director
Teresa Green, Staff Assistant
Carol Dubard, Minority Consultant
Glenda Temple, Clerk
Vernie Hubert, Majority Associate Counsel
Alice Devine, Minority Associate Counsel
Christy Nowak, Staff Assistant
Jim Davis, Press Secretary

Witnesses:

1. Honorable Jim Leach, Member of Congress from Iowa
   Acc. by: Mr. Charles D. Swaim, Jr., sheep producer, Drakesville, Iowa
   Ms. Kriste Swaim, Drakesville, Iowa
   Mr. Joe Warrick, sheep producer, Oskaloosa, Iowa

2. Dr. James W. Glosser, Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Dr. Harry Michael Chaddock, State Veterinarian, Animal Industry Division, Michigan Department of Agriculture, Lansing, Michigan
   Dr. Chester Gipson, Animal Plant Health Inspection Service, USDA
   Dr. Mark Robinson, Microbiologist, Agricultural Research Service, USDA

3. Panel

   Mr. Philip E. Bradshaw, President, United States Animal Health Association, Griggsville, Illinois

   Mrs. Michele Howard, Chairwoman, Sheep and Goats Committee, United States Animal Health Association, Galt, California

   Mr. Dwight Dial, Member, American Sheep Industry Association, Lake City, Iowa

   Mr. Rodger Wasson, Executive Director, American Sheep Industry Association, Denver, Colorado

4. Panel

   Mr. Paul E. Rodgers, Producer Services Director, Sheep Industry Development Program, Inc., American Sheep Industry Association, Christiansburg, Virginia

   Dr. Warren C. Foote, Professor of Animal Physiology, Department of Animal and Veterinary Sciences, Utah State University, Logan, Utah

   Dr. R. F. Marsh, Professor, Department of Veterinary Science, University of Wisconsin-Madison, Madison, Wisconsin

U.S. GOVERNMENT PRINTING OFFICE: 1987 75-633 (m)

Thursday, July 27, 1989
Subcommittee on Livestock,
Dairy, and Poultry
Public Hearing
Scrapie Eradication Act
H.R. 799

Statements Submitted for the Record:

1. Mr. Harold J. Hartley, Director, Commodity and Marketing Division, American Farm Bureau Federation, 600 Maryland Avenue, SW #800, Washington, D.C.

2. Mr. Olin Timm, Chairman, Animal Health Committee, California Wool Growers Association, 1221 H Street, Sacramento, California 95814-1910

Chairman Stenholm called the hearing to order for the purpose of reviewing H.R. 799, the Scrapie Eradication Act. The Chairman made opening comments on the need to look at the disease and program, as did Messrs. Olin, Smith, Campbell and Johnson.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings Mr. Olin assisted with the chairing responsibilities. The hearing was recessed at 11:55 a.m. to enable Members to respond to recorded votes on the House floor. At 12:45 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Monday, July 31, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 2:00 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the status of the Export Enhancement Program

The following Members were present:

Mr.	Glickman	Mr.	Roberts	Mr.	
Mr.	Johnson	Mr.	Smith	Mr.	
Mr.	English	Mr.	Schuette	Mr.	
Mr.	Volkmer	Mr.	Grandy	Mr.	
Mr.	Penny	Mr.		Mr.	
Mr.	Nagle	Mr.		Mr.	
Mr.	Jontz	Mr.		Mr.	
Ms.	Long	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	
				Mr.	
				Mr.	

Staff present:

Greg Frazier, Subcommittee Staff Director
Anne Keys, Staff Assistant
Cliff Humphrey, Minority Consultant
Vernie Hubert, Majority Associate Counsel
Alice Devine, Minority Associate Counsel
Glenda Temple, Clerk
Jim Davis, Press Secretary
Tom Lederer, Staff Assistant
Anita Brown, Staff Assistant

Witnesses:

1. Mr. Richard T. Crowder, Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C..
   Acc. by: Mr. Scott Steele, Deputy Director, Program Analysis, Budget and Program Analysis, U.S. Department of Agriculture, Washington, D.C.

2. Mr. Allan I. Mendelowitz, Director, Trade, Energy, and Finance Issues, National Security and International Affairs Division, General Accounting Office, Washington, D.C.
   Acc. by: Mr. Phillip J. Thomas, Assistant Director of Agricultural Trade, National Security and International Affairs Division, General Accounting Office, Washington, D.C.

   Ms. Juliann Gerkens, Project Manager, General Accounting Office, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Dan Glickman, Member of Congress from Kansas

2. Hon. Ron Marlenee, Member of Congress from Montana

Monday, July 31, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Hearing
Export Enhancement Program

Mr. Glickman, Chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains, called the meeting order for the purpose of reviewing the status of the Export Enhancement Program. Mr. Glickman made opening comments, as did Messrs. Smith and Grandy.

The witnesses listed on page 2 were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings Mr. Johnson assisted with the chairing responsibilities. At 4:30 p.m. the meeting was adjourned to reconvene, subject to the call of the chair.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, August 2, 1989

(Sub) Committee: Full

Business Meeting

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering Whites Creek Watershed Project, Mississippi, and H.R. 2869, the Commodity Futures Improvements Act of 1989

The following Members were present:

Mr. de la Garza
Mr. Brown
Mr. Rose
Mr. English
Mr. Panetta
Mr. Huckaby
Mr. Glickman
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Tallon
Mr. Staggers
Mr. Olin

Mr. Penny
Mr. Stallings
Mr. Nagle
Mr. Jontz
Mr. Johnson
Mr. Harris
Mr. Campbell
Mr. Espy
Mr. Sarpalius
Mr. Long
Mr. Dyson
Mr. Lancaster
Mr.

Mr. Madigan
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Gunderson
Mr. Lewis
Mr. Smith
Mr. Combest
Mr. Schuette
Mr. Grandy
Mr. Herger
Mr. Holloway
Mr. Walsh
Mr. Grant

Staff present:

Bert R. Peña
Dan Brinza
John E. Hogan
Vernie Hubert
Joe Mulqoon
Alice Devine
Fred Clark

Bill Cherry
Jim McDonald
Dave Ebersole
Glenda Temple
Jim Davis
Charles Hilty
Tom Lederer
William E. O'Conner, Jr.

Witnesses:

Present from the Commodity Futures Trading Commission to respond to technical questions:

Mr. John Mackay, Chief of Staff, Commodity Futures Trading Commission, Washington, D.C.

Wednesday, August 2, 1989
Full Committee
Business Meeting
Whites Creek Watershed,
Mississippi
Commodity Futures Improvements
Act of 1989 - H.R. 2869

Action Taken:

-- Without objection Whites Creek Watershed Project, Mississippi approved.

-- Without objection Huckaby amendment requiring minimum margin levels of 15 percent for equity index futures contracts withdrawn.

-- By a show of hands vote (7 yeas-12 nays) Rose amendment, permitting new contracts in exchanges even if all requirements of the Act were not followed, not adopted.

-- Without objection Glickman amendment reformed in two instances.

-- By voice vote Glickman amendment, as reformed, prohibiting abuse of hedging exemptions agreed to.

-- By voice vote Gunderson amendment providing for a competitiveness study adopted.

-- By voice vote Nagle-Grandy en bloc amendments prohibiting insider trading agreed to.

-- Without objection Nagle-Grandy accompanying report language to en bloc amendments approved.

-- By roll call vote (19 yeas-17 nays) Coleman amendment to strike Tallon proposal making front running or trading ahead a felony approved.

-- Without objection Panetta unanimous consent request to permit staff to redraft Long amendment on emergency actions withdrawn.

-- Without objection English technical amendment dealing with enhancement of registration requirements adopted.

-- By voice vote Long amendment dealing with exchange emergency actions agreed to.

-- Without objection de la Garza technical amendments adopted.

Wednesday, August 2, 1989
Full Committee
Business Meeting
Whites Creek Watershed,
Mississippi
Commodity Futures Improvements
Act of 1989 - H.R. 2869

Action Taken Continued:

-- Without objection Tallon report language clarifying prohibition on trading ahead in current law agreed to.

-- Without objection English amendment clarifying verifiability agreed to.

-- By voice vote H.R. 2869, as amended, ordered reported to the House in the presence of a quorum.

Chairman de la Garza called the meeting to order for the purpose of considering the Whites Creek Watershed, Mississippi, and H.R. 2869, the Commodity Futures Improvements Act of 1989.

The first item of business was consideration of the watershed project (see attached summary of Whites Creek Watershed). Mr. English, Chairman of the Subcommittee on Conservation, Credit, and Rural Development, was recognized to explain the purpose of the watershed to provide urban flood prevention and water supply storage. Discussion occurred and without objection the project was approved.

The Chairman called for the consideration of H.R. 2869, a bill to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission, establish registration standards for all exchange floor traders, restrict practices which may lead to the abuse of outside customers of the marketplace, reinforce development of exchange audit trails to better enable the detection and prevention of such practices, establish higher standards for service on governing boards and disciplinary committees of self regulatory organizations, enhance the international regulation of futures trading, regularize the process of authorizing appropriations for the Commodity Futures Trading Commission, and for other purposes. (See attached copy of Subcommittee Print, brief explanation and section-by-section analysis.)

Wednesday, August 2, 1989
Full Committee
Business Meeting
Whites Creek Watershed,
Mississippi
Commodity Futures Improvements
Act of 1989 - H.R. 2869

Mr. English, Chairman of the Subcommittee on Conservation, Credit, and Rural Development, was recognized to give the Subcommittee's report and explain the provisions of the legislation. Mr. Coleman, the Ranking Minority Member of the Subcommittee, participated in the explanation of the bill. Discussion occurred.

Mr. Huckaby was recognized to offer the attached amendment to require minimum margin levels of 15 percent for equity index futures contracts, except for bona fide hedge transactions. Discussion occurred, and without objection the amendment was withdrawn.

Mr. Rose offered the attached amendment which would permit the Commodity Futures Trading Commission to allow a new contract in a particular exchange even if all audit trail requirements of the Act had not been followed in all pits of the exchange. Discussion occurred and by a show of hands vote of 7 yeas-12 nays the amendment was not agreed to.

Mr. Glickman offered the attached amendment to prohibit abuse of hedging exemptions. Discussion occurred. Without objection, on observation of Mr. Brown, the Glickman amendment was reformed by deleting the word "to" in next to last line making it read: "to restrict such person's transactions or positions in".

Discussion continued and counsel suggested the changes, as reflected on the attached sheet, to mean that an individual would be able to go up to the position limit established and would be able to go over that limit to the extent that it is a bona fide hedging transaction or is otherwise exempt pursuant to the section which exempts certain spreads and straddle trades. Without objection the Glickman amendment was reformed and then adopted by a voice vote.

Mr. Gunderson offered the attached amendment providing for a competitiveness study. Discussion occurred and by a voice vote the amendment was agreed to.

Wednesday, August 2, 1989
Full Committee
Business Meeting
Whites Creek Watershed,
Mississippi
Commodity Futures Improvements
Act of 1989 - H.R. 2869

Mr. Glickman began discussion of the Long amendment which had been approved by the Subcommittee and included in the Print (section 212). He explained that the provision required that before an emergency action can be taken by a contract market that it must submit the action to the Commission and receive either an approval, a disapproval, or a "no action" position. Lengthy discussion occurred on what should be included and covered by the Long amendment. Ms. Long was asked by the Committee to revise her amendment to reflect the views of the Committee prior to final action on the legislation. Further any accompanying report language should also reflect the Committee's intent.

Mr. Nagle, on behalf of himself and Mr. Grandy offered the attached amendments en bloc with report language. The Nagle-Grandy proposals would prohibit insider trading. Discussion occurred. By a voice vote the Nagle-Grandy amendments were adopted. Without objection the accompanying report language was approved for inclusion in the Committee report.

Mr. Coleman offered the attached amendment to strike the Tallon amendment, approved by the Subcommittee, from the bill. The Tallon proposal made front running or trading ahead a felony. Discussion occurred. A report, indicating that existing antifraud provisions as well as mail and wire fraud provisions provide ample statutory authority to proceed against front running offenses, from the Department of Justice was distributed (copy attached).

As an alternative to striking the section, Mr. Tallon proposed including the attached report language in the Committee report. Discussion continued. A recorded vote was requested on the amendment, and a sufficient number of Members supported the request, and the vote follows:

Wednesday, August 2, 1989
Full Committee
Business Meeting
Whites Creek Watershed,
Mississippi
Commodity Futures Improvements
Act of 1989 - H.R. 2869

Y E A S

1. Mr. English
2. Mr. Stenholm
3. Mr. Olin
4. Mr. Coleman
5. Mr. Marlenee (proxy to Mr. Coleman)
6. Mr. Roberts
7. Mr. Emerson
8. Mr. Morrison
9. Mr. Gunderson
10. Mr. Smith
11. Mr. Combest (proxy to Mr. Coleman)
12. Mr. Schuette
13. Mr. Walsh
14. Mr. Jones (N.C.) (proxy to Mr. de la Garza)
15. Mr. Hatcher (proxy to Mr. de la Garza)
16. Mr. Sarpalius (proxy to Mr. de la Garza)
17. Mr. Campbell (proxy to to Mr. de la Garza)
18. Mr. de la Garza
19. Mr. Lewis

N A Y S

1. Mr. Panetta
2. Mr. Huckaby
3. Mr. Glickman
4. Mr. Volkmer
5. Mr. Tallon
6. Mr. Penny
7. Mr. Nagle
8. Mr. Jontz
9. Mr. Johnson
10. Mr. Harris
11. Mr. Espy
12. Ms. Long
13. Mr. Dyson
14. Mr. Lancaster
15. Mr. Madigan
16. Mr. Grandy
17. Mr. Staggers

Thus, by a roll call vote of 19 yeas-17 nays the amendment was agreed to and the Tallon proposal was deleted from the bill.

Ms. Long distributed the attached concepts dealing with her amendment to require prior CFTC notification of exchange emergency actions. Discussion occurred.

Mr. Panetta asked unanimous consent that staff be permitted to draft bill language consistent with the points listed on the sheet. Discussion occurred and without objection Mr. Panetta withdrew his request since the consensus of the Committee was to see actual bill language.

Wednesday, August 2, 1989
Full Committee
Business Meeting
Whites Creek Watershed,
Mississippi
Commodity Futures Improvements
Act of 1989 - H.R. 2869

Mr. English offered the attached technical amendment, on behalf of the Commodity Futures Trading Commission and the National Futures Association, dealing with enhancement of registration requirements. Discussion occurred and without objection the proposal was adopted.

Ms. Long distributed the attached bill language dealing with exchange emergency actions. Discussion occurred, and by a voice vote the Long amendment was agreed to.

Chairman de la Garza offered the attached technical amendments. He explained that the proposal made technical changes to the Act, not the bill under consideration. Discussion occurred and without objection the proposal was agreed to.

Mr. Tallon offered the attached report language to clarify that the Committee believes that current law already prohibits trading ahead and that a violation is a criminal offense. Discussion occurred and without objection the language was approved.

Mr. Madigan raised a question about the deletion of language from the Subcommittee Print. It was explained that staff had suggested the deletion since the wording was redundant. Mr. English moved that on page 5, line 17, the word "fully" be inserted before the word "verifiable" to meet Mr. Madigan's concerns. There was no objection.

The question occurred on adoption of H.R. 2869, as amended. By a voice vote the bill was approved and ordered reported to the House in the presence of a quorum (32 Members present and voting) with the recommendation that it do pass.

Staff was given permission to make any necessary clerical and technical corrections. Members were reminded that if they had further report language it could be included in the report as additional or supplementary views.

Wednesday, August 2, 1989
Full Committee
Business Meeting
Whites Creek Watershed,
Mississippi
Commodity Futures Improvements
Act of 1989 - H.R. 2869

During the proceedings recesses were taken at 11:05 a.m., 11:55 a.m., 2:55 p.m., and 6:05 p.m. to enable Members to respond to recorded votes on the House floor. At 7:30 p.m. the meeting was adjourned to reconvene, subject to the call of the Chair.

Glenda Temple

STATEMENT OF REP. E (KIKA) DE LA GARZA, D-TEXAS
CHAIRMAN, HOUSE COMMITTEE ON AGRICULTURE

FULL COMMITTEE MARKUP SESSION ON H.R. 2869,
THE COMMODITY FUTURES IMPROVEMENTS ACT OF 1989,
AUGUST 2, 1989

Today the Committee on Agriculture takes up consideration of H.R. 2869, the Commodity Futures Improvements Act of 1989.

I should point out that the Committee on Agriculture has exclusive jurisdiction over the regulation of the futures industry. It is our responsibility to ensure the integrity of the futures trading process for investors, farmers, and the American public.

Needless to say, events since January have led us to look more closely at both futures industry practices and at the authority given to the Commodity Futures Trading Commission.

The Justice Department investigation into alleged criminal activities at the Chicago exchanges and other incidents have raised serious questions about the opportunity for fraudulent trading practices at the exchanges.

In order for the Committee to fairly and intelligently address these questions, on February 1st I directed the Chairman of the Subcommittee on Conservation, Credit and Rural Development, Mr. English, to launch an immediate, in-depth inquiry into the operations of the futures industry and the CFTC's oversight of that industry.

I would like to take this opportunity to commend the members of the Conservation, Credit, and Rural Development Subcommittee -- and particularly the Subcommittee Chairman, Mr. English, and the Subcommittee's Ranking Minority Member, Mr. Coleman -- for the way that inquiry was conducted, and for the bipartisan cooperation which has enabled us to have this legislation before us today.

As reported by the Subcommittee on Conservation, Credit, and Rural Development, H.R. 2869 recognizes that since its establishment by the Congress 15 years ago, the CFTC has matured into an able and effective financial regulator. I believe the evidence of that will be seen in the indictments that are expected to be handed down in Chicago later today.

I am pleased that the sponsors of the bill have reiterated that the CFTC is a permanent financial regulatory agency.

Our goal today is to enhance the CFTC's effectiveness over the long term and to ensure the integrity of the futures markets.

Whites Creek Watershed Statement

HON. GLENN ENGLISH

August 2, 1989

Mr. Chairman, the Whites Creek Watershed in Webster County, Mississippi, is designed to reduce urban flooding and provide storage for municipal water supply. The land area to be treated will protect the soil resource base and reduce the chance for sediment deposit downstream. It is expected that the project will reduce urban flood damage by $122,000 annually and provide up to 1.5 million gallons of water per day for use by the City of Eupora. I move the approval of this watershed.

WHITES CREEK WATERSHED, MISSISSIPPI

Size and Location: 4,680 acres - Webster County

Tributary to: Little Black Creek

Sponsors: City of Eupora, Mississippi
Webster County Soil and Water Conservation District

Purposes: Urban flood prevention and water supply storage

Total Watershed Land Use:	Percent
Cropland	12
Grassland	15
Forestland	57
Idle	3
Urban and Built-up	13

Total watershed privately owned - 100%

Number of Farms: 24

Size of Farms: 166 acres

Principal Measures:

Multiple-purpose structure (flood prevention and industrial water supply)

Annualized Benefits:

	Dollars	Percent
To agricultural acreage (land and crops)	$ 700	.5
To agricultural improvements	-	-
To non agricultural improvements	169,100	99.5
Total	$169,800	100

Project Costs:

	PL-566 Funds		Other Funds		Total
	Dollars	Pct.	Dollars 1/	Pct.	Dollars
Land Treatment Measures	$ 1,700	65	$ 900	35	$ 2,600
Technical Assistance	1,200	100	0	0	1,200
Structural Measures					
Multiple-purpose	756,100	52	699,500	48	1,455,600
Project Administration	50,700	67	24,500	33	75,200
Total	$809,700	53	$724,900	47	$1,534,600

Annualized Costs:

Project Installation	$ 64,500	53	$ 57,700	47	$ 122,200
OM&R	0	0	800	100	800

Area Benefited: 430 acres

Number of Beneficiaries: Flood prevention - 34 urban properties
Adequate water supply to meet the projected needs of the City of Eupora (population--2,048).

Carrying out the project:

The estimated annual cost of operation and maintenance is $800.

Benefit-Cost Ratio: 1.4:1

The sponsors intend to use a FmHA loan.

1/ For land treatment measures, this is primarily the cost of applying land treatment measures by landowners. For structural measures, this is the cost of all required landrights plus the design and construction cost for the water supply portion of the project.

SUBCOMMITTEE PRINT

H.R. 2869

Showing the text approved on July 26, 1989 by

the Subcommittee on Conservation, Credit, and Rural Development

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.--This Act may be cited as the "Commodity Futures Improvements Act of 1989".

(b) TABLE OF CONTENTS.--The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

TITLE I--LIMITATIONS ON CERTAIN TRADING PRACTICES

Sec. 101. Dual trading.
Sec. 102. Trading among members of broker associations.

TITLE II--ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES

Sec. 201. Audit trails.
Sec. 202. Telemarketing fraud.
Sec. 203. Undercover operations and enforcement.
Sec. 204. Self regulatory organization disciplinary committees and governing boards.
Sec. 205. Required registration of floor traders.
Sec. 206. Enhancement of registration requirements.
Sec. 207. Enforcement of civil money penalties.
Sec. 208. Ethics training for registrants.
Sec. 209. Nationwide service of process and venue.
Sec. 210. Trading ahead.
Sec. 211. Penalties for felony violations.
Sec. 212. Contract market emergency actions.
Sec. 213. Study of delivery points for agricultural commodity contracts.

TITLE III--ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

Sec. 301. Definition of foreign futures authority.
Sec. 302. Subpoena authority.
Sec. 303. Cooperation with foreign futures authorities.
Sec. 304. Investigative assistance to foreign futures

authorities.
Sec. 305. Disclosure of information received from foreign futures authorities.
Sec. 306. Disclosure of information to foreign futures authorities.

TITLE IV--AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATE

Sec. 401. Authorization of appropriations.
Sec. 402. Effective date.

TITLE I. LIMITATIONS ON CERTAIN TRADING PRACTICES

SEC. 101. DUAL TRADING.

(a) PROHIBITION.--Section 4j(1) of the Commodity Exchange Act (7 U.S.C. 6j(1)) is amended to read as follows:

"(1)(A) The Commission shall issue regulations to prohibit dual trading by a floor broker in any contract market in which the Commission determines the average daily trading volume to be equal to or greater than the threshold trading level established pursuant to this paragraph. For the purposes of this subsection, the threshold trading level shall be 7,000 contracts, based on a 6 month moving average of the number of contracts traded daily on such contract market. The Commission may provide for increases or decreases in the threshold trading level for contract markets if, in the judgement of the Commission, such a change is warranted. In determining whether such a change is warranted, the Commission shall consider the effects of this paragraph on the liquidity of the contract market, price volatility, bid-ask spreads, and the public interest. Any action by the Commission to adjust the threshold trading level of a contract market pursuant to this paragraph shall be reported to the Committee on

Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than 3 days after the Commission takes such action.

"(B) If the Commission has not determined to prohibit dual trading in a contract market pursuant to paragraph (C), the regulations issued by the Commission to implement paragraph (A) for such contract market shall--

"(i) define the term 'dual trading';

"(ii) specify the methodology by which the Commission shall determine the average daily trading volume of contracts on a contract market;

"(iii) provide for transition measures, as determined necessary by the Commission to prevent market disruption or to protect the public interest, for a contract market when the average daily trading volume on such contract market increases to or above, or decreases below, the threshold trading level;

"(iv) provide that a floor broker may dual trade in a newly designated contract market until the average daily trading volume on such contract market has increased to or above the threshold trading level;

"(v) provide for limited exceptions, as the Commission determines necessary, to the prohibition against dual trading required by paragraph (A) with respect to spread trades and trades to correct errors;

"(vi) provide that a floor broker affected by paragraph

(A) shall indicate prior to the opening of trading for any given trading session whether such floor broker shall trade solely for such broker's own account or solely for customers' accounts for the entire trading session, with limited exceptions as determined by the Commission pursuant to subparagraphs (v) and (vii); and

"(vii) provide that a customer may designate an individual floor broker to execute such customer's orders for future delivery and trade for such broker's own account, notwithstanding the provisions of paragraph (A), if such customer, not less than once annually, executes a written form designating such broker by name.

Such regulations may also provide that if the average daily trading volume on a contract market increases to or above, or decreases below, the threshold trading level, any change in the status of dual trading otherwise required by paragraph (A) may be delayed or suspended if the Commission determines that such increase or decrease is a temporary, unusual occurrence.

"(C) Notwithstanding paragraphs (A) and (B), the Commission shall, as it determines necessary, make a determination from time to time, by rule, regulation or order, whether or not dual trading, as that term may be defined in regulations issued by the Commission, by a floor broker may be allowed in contract markets where such trading is not prohibited pursuant to paragraph (A). If the Commission determines that dual trading by a floor broker shall be permitted, the Commission shall further determine the

terms, conditions, and circumstances under which such dual trading shall be conducted. Any such determination shall, at a minimum, take into account the effect of dual trading upon the liquidity of trading in each contract market. Nothing in this subsection shall be construed to prohibit the Commission from making separate determinations for different contract markets when such are warranted in the judgment of the Commission, or to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission.

"(D) The Commission shall issue an order to exempt a contract market from the provisions of paragraph (A) if the applicable board of trade can demonstrate to the Commission that the surveillance systems and procedures, including but not limited to the audit trail, for that contract market (i) can detect those instances of trading violations that the Commission determines to be attributable to dual trading, and (ii) are verifiable. The Commission shall approve or deny any application by a board of trade for such an order no later than 60 days after receipt of the application. The Commission shall report the issuance of any such order to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than 3 days after the issuance of such order.".

(b) REGULATIONS.--(1) The Commission shall issue the regulations required by section 4j(1)(B) of the Commodity Exchange Act no later than 270 days after the effective date of

this Act. The Commission shall issue regulations to implement the provisions of section 4j(1)(D) of the Commodity Exchange Act no later than 240 days after the date of enactment of this Act.

(2) If, no later than 270 days after the date of enactment of this Act, a board of trade submits an application to the Commission for an order for a contract market pursuant to section 4j(1)(D) of the Commodity Exchange Act, the Commission may, pending the completion of its review of such application, temporarily waive the application of the provisions of section 4j(1)(A) of the Commodity Exchange Act to that contract market if the Commission determines that there is a likelihood that the contract market meets the conditions of section 4j(1)(D) of the Commodity Exchange Act.

SEC. 102. TRADING AMONG MEMBERS OF BROKER ASSOCIATIONS.

(a) PROHIBITION.--Section 4j of the Commodity Exchange Act (7 U.S.C. 6j) is amended by adding at the end the following:

"(3) It shall be unlawful, pursuant to regulations issued by the Commission,--

"(A) for a member of a broker association, for or on behalf of any customer, to execute a transaction such that another member of the same broker association, trading for such other member's own account, or the account of the association, takes the opposite side of such transaction;

"(B) for any member of a broker association to trade with another member of the same broker association, whether such brokers are trading for such brokers' own accounts, for

customers, or for the account of the broker association, if such transactions in any month total more than 25 percent of the total number of transactions of such broker; and

"(C) for any member of a broker association to engage in such other practices as the Commission determines necessary to prohibit or to curb abuses and otherwise protect the interests of customers from potential trading abuses by members of broker associations.

Such regulations shall include a definition of the term 'broker association' and may provide for exceptions from the provisions of this subsection in the case of trades executed through trading systems where the identity of the opposite broker is unknown at the time of the trade. Nothing in this subsection shall be construed to prohibit the Commission or contract markets from prohibiting trading by broker associations or their members, or from setting terms and conditions for such trading that are more restrictive than those set by this subsection.".

(b) REGULATIONS.--The Commission shall issue regulations to implement section 4j(3) of the Commodity Exchange Act no later than 270 days after the effective date of this Act.

(c) REPORT TO CONGRESS.--The Commission shall determine whether the public interest would best be served by placing alternative restrictions on trading by broker associations and their members, and whether such broker associations, or trading by such broker associations, should be prohibited. The Commission shall submit a report of its determinations and any

recommendations by the Commission for regulatory or legislative initiatives to implement such recommendations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than 270 days after the effective date of the regulations required under this section.

TITLE II. ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES

SEC. 201. AUDIT TRAILS.

(a) AUDIT TRAIL REQUIREMENTS FOR CONTRACT MARKETS.--Section 4g(2) of the Commodity Exchange Act (7 U.S.C. 6g) is amended by--

(1) inserting "(A)" after "(2)"; and

(2) adding at the end thereof the following new paragraph:

"(B)(i) Each contract market shall maintain or cause to be maintained by its clearinghouse a single record that shall show for each futures or options trade the transaction date, time of execution (as required by subparagraph (ii)), quantity, and, as applicable, underlying commodity, price or premium, delivery month or expiration date, whether the transaction involved a contract for future delivery or physical, put or a call, strike price, floor broker or floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, symbols indicating the buying and selling customer or option customer types and such other information as the Commission determines necessary. Such record shall enable such contract market to rapidly reconstruct an accurate record, as determined by the Commission, of the transactions executed on

such contract market.

"(ii) For the purposes of subparagraph (i), the time of execution of a transaction shall be verifiable and shall--

"(a) be stated within an increment of no more than one minute in length, beginning not later than one year after the effective date of this paragraph; and

"(b) be stated within an increment of no more than 30 seconds in length, beginning not later than three years after the effective date of this paragraph.

"(iii) The Commission shall submit a report on the status of compliance with the standards imposed by this paragraph to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 180 days after the dates specified in clauses (B)(ii)(a) and (B)(ii)(b), respectively.

"(iv) The Commission shall--

"(a) determine whether the record required by this paragraph has enabled the affected contract markets to rapidly reconstruct an accurate, verifiable record of the transactions executed on such contract markets, as determined necessary by the Commission to provide for the effective enforcement of the applicable provisions of this Act and the rules or regulations thereunder;

"(b) determine whether the recording and reconstruction of the time and sequence of trades can more accurately represent the real times of such trades through the use of

improved technologies or other means and determine whether any regulatory or legislative changes would be necessary or appropriate to implement such improvements; and

"(c) report its findings pursuant to this subparagraph to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than 5 years after the effective date of this paragraph.".

(b) AUDIT TRAIL COMPLIANCE AS CONDITION FOR CONTRACT MARKET DESIGNATION.--Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended by adding at the end the following new paragraph:

"(h) When such board of trade demonstrates that every contract market for which such board of trade is designated complies with the requirements of section 4g(2)(B)(ii)(a) and 4g(2)(B)(ii)(b) of this Act.".

SEC. 202. TELEMARKETING FRAUD.

Section 17 of the Commodity Exchange Act (7 U.S.C. 6p), is amended by adding the following:

"(s) Each futures association registered under this section shall, subject to the approval of the Commission pursuant to subsection (j), adopt a rule specifying the factors it will consider in determining whether to issue a summary member responsibility action or other disciplinary action to require a member to adopt special supervisory procedures relating to telephone solicitations for new futures or options customer accounts. Such procedures shall require at a minimum that, with

respect to an individual with no previous futures or options trading experience who was solicited by telephone, the member may not enter any order for such individual for a period of not less than 3 days after the individual signs the required acknowledgement of receipt of the applicable risk disclosure statement.".

SEC. 203. UNDERCOVER OPERATIONS AND ENFORCEMENT.

Section 8(a) of the Commodity Exchange Act (7 U.S.C. 12(a)) is amended by:

(a) inserting "(1)" after "(a)"; and

(b) adding at the end the following:

"(2) In conducting investigations authorized under this subsection or any other provision of this Act, the Commission shall continue, as the Commission determines necessary, to request the assistance of and cooperate with the appropriate Federal agencies in the conduct of such investigations, including undercover operations by such agencies.".

SEC. 204. SELF REGULATORY ORGANIZATION DISCIPLINARY COMMITTEES AND GOVERNING BOARDS.

(a) DISCIPLINARY COMMITTEES AND MAJOR VIOLATIONS.--Section 8c of the Commodity Exchange Act (7 U.S.C. 12c) is amended by adding at the end the following new subsections--

"(5) The Commission shall issue regulations to require the establishment of a system of contract market disciplinary committees. Under such system, each board of trade which has been designated as a contract market shall--

"(A) establish one or more disciplinary committees which shall be authorized by such board of trade to determine whether violations of the rules of the board of trade have been committed, to accept offers of settlement, and to impose appropriate penalties;

"(B) provide that disciplinary committees established pursuant to paragraph (A) be composed of members of the board of trade, or staff members of the board of trade, such that the committee, or any hearing panel formed by the committee to conduct disciplinary hearings, shall be composed of a majority of persons who are of a different trading status than the respondent; and

"(C) provide that a hearing panel formed by the committee to conduct disciplinary hearings may be composed of fewer than the total number of members of the committee. For the purposes of paragraph (B), a disciplinary committee member's trading status shall be determined by whether such member is a: (1) floor broker or floor trader, (2) member of the board of trade other than a member who acts primarily as a floor broker or floor trader, or (3) staff member of such board of trade.

"(6)(A) The Commission shall issue regulations requiring each contract market to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such contract market.

"(B) The regulations issued by the Commission pursuant to

this subsection shall prohibit for a period of time to be determined by the Commission any individual who is found to have committed any such major violation of such contract market from service on the governing board of any contract market or registered futures association, or on any disciplinary committee thereof.".

(b) REGISTERED FUTURES ASSOCIATIONS.-- Section 17 of the Commodity Exchange Act (7 U.S.C. 21) is amended by adding after subsection (q) the following new subsection:

"(r)(1) The Commission shall issue regulations requiring each registered futures association to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such registered futures association.

"(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any member of a registered futures association who is found to have committed any such major violation of such registered futures association from service on the governing board of any registered futures association or contract market, or on any disciplinary committee thereof.".

(c) OUTSIDE REPRESENTATION ON GOVERNING BOARDS.--(1) Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended by--

(A) striking "and" following the semicolon at the end of paragraph (11);

(B) striking "involved." at the end of paragraph (12)

and inserting "involved; and"; and

(C) adding at the end the following new paragraph:

"(13) ensure that outside members, as defined in regulations issued by the Commission, comprise at least 20 percent of the governing board of such contract market.".

(2) Section 17(b) of the Commodity Exchange Act (7 U.S.C. 21), as amended by section 204(b)(2) of this Act, is amended by adding at the end the following new paragraph:

"(11) at least 20 percent of the members of the governing board thereof are outside members, as defined in regulations issued by the Commission.".

(d) REGULATIONS.--The Commodity Futures Trading Commission shall issue the regulations required by sections 5a(13), 8c(5), 8c(6), 17(b)(11) and 17(r) of the Commodity Exchange Act no later than 180 days after the effective date of this Act.

SEC. 205. REQUIRED REGISTRATION OF FLOOR TRADERS.

(a) DEFINITION.--Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended by inserting after the sentence beginning "The words 'floor broker'" a new sentence as follows:

"The words 'floor trader' shall mean any person who, in or surrounding any 'pit', 'ring', 'post', or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell solely for such person's own account any commodity for future delivery on or subject to the rules of any contract market.".

(b) FLOOR TRADER REGISTRATION.--Section 4e of the Commodity Exchange Act (7 U.S.C. 6e) is amended to read as follows:

"Sec. 4e.--It shall be unlawful for any person to act as floor trader in executing purchases and sales, or as floor broker in executing any orders for the purchase or sale, of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this Act, with the Commission as such floor trader or floor broker and such registration shall not have expired nor been suspended nor revoked.".

(c) REGISTRATION PROCEDURE.--Section 4f(1) of the Commodity Exchange Act (7 U.S.C. section 6f(1)) is amended by striking the words "or floor broker" and inserting the words "floor broker, or floor trader".

(d) REPORTS; BOOKS AND RECORDS.--Section 4g(1) of the Commodity Exchange Act (7 U.S.C. section 6g (1)) is amended by striking the words "or floor broker" and inserting the words "floor broker, or floor trader".

(e) JURISDICTION OF THE STATES.--(1) Section 6d(1) of the Commodity Exchange Act (7 U.S.C. section 13a-2(1)) is amended by striking the words "or floor broker" and inserting the words "floor broker, or floor trader".

(2) Section 6d(8)(A) of the Commodity Exchange Act (7 U.S.C. section 13a-2(8)(A)) is amended by inserting ", floor trader," after the words "floor broker".

(f) COMMISSION AUTHORITY TO REGISTER FLOOR TRADERS.--Section 8a(1) of the Commodity Exchange Act (7 U.S.C. section 12a(1)) is amended by striking out the words "and floor brokers" and inserting the words "floor brokers, and floor traders".

(g) REFUSAL TO REGISTER.--(1) Section 8a(2)(C)(i) of the Commodity Exchange Act (7 U.S.C. section 12a(2)(C)(i)) is amended by inserting "floor trader," after "floor broker,".

(2) Section 8a(2)(D)(ii) of the Commodity Exchange Act (7 U.S.C. section 12a(2)(D)(ii)) is amended by inserting "floor trader," after "floor broker,".

(3) Section 8a(3)(E)(ii) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(E)(ii)) is amended by inserting "floor trader," after "floor broker,".

(h) REGULATIONS.--The Commission shall issue any regulations necessary to implemant the provisions of this section no later than 180 days after the effective date of this Act.

SEC. 206. ENHANCEMENT OF REGISTRATION REQUIREMENTS.

(a) Section 8a(2)(C) of the Commodity Exchange Act (7 U.S.C. 12a(2)(C)) is amended by--

(1) inserting immediately after the word "decree" the second time it appears "or solely on the basis of an order, judgment or decree which is not deemed to constitute a disqualification from registration by the regulatory agency which initiated the injunctive action";

(2) in clause (ii) striking "involving any transaction in or advise concerning contracts of sale of a commodity for

future delivery," and inserting "where such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gambling or deception of customers, or";

(3) inserting a semicolon immediately after "Act"; and

(4) striking "or concerning securities;".

(b) Section 8a(2)(D)(iii) of the Commodity Exchange Act (7 U.S.C. 12a(2)(D)(iii)) is amended by--

(1) striking "or" immediately before "gambling,"; and

(2) inserting "or deception of customers," immediately after "gambling,".

(c) Section 8a(2)(D)(iv) of the Commodity Exchange Act (7 U.S.C. 12a(2)(D)(iv)) is amended by--

(1) inserting "371, 1001," immediately after "152,";

(2) striking "or" immediately after "1342";

(3) inserting "1503, 1623, 1961, 1962, 1963, or 2314," immediately after "1343,"; and

(4) inserting "or section 7201 or 7206 of the Internal Revenue Code of 1986" immediately after "18,".

(d) Section 8a(2)(E) of the Commodity Exchange Act (7 U.S.C. 12a(2)(E)) is amended by--

(1) striking "by any court of competent jurisdiction," and inserting "in a proceeding brought";

(2) in clause (i) inserting "the Racketeer Influenced Corrupt Organizations Act," immediately after "1977,";

(3) in clause (i) striking out "or" immediately after "bribery"; and

(4) in clause (i) inserting "or deception of customers," immediately after "gambling,".

(e) Section 8a(2)(G) of the Commodity Exchange Act (7 U.S.C. 12a(2)(G)) is amended by--

(1) striking "subparagraphs (A) through (F) of this paragraph," and inserting "sections 8a(2) and 8a(3),";

(2) striking "material" the first time it appears, and inserting "materially"; and

(3) strike "application:" and insert "application or any update thereto:".

(f) Section 8a(3)(D) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(D)) is amended by--

(1) inserting "pleaded guilty to or" immediately after "person";

(2) inserting a comma after "section" the first time it appears;

(3) striking "within ten years preceding the filing of the application or at any time thereafter,";

(4) striking ",including a felony"; and

(5) striking ",more than" and inserting "more than".

(g) Section 8a(3)(E) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(E) is amended by--

(1) inserting "pleaded guilty to or" after "person";

(2) striking "within ten years preceding the filing of the

application for registration or at any time thereafter";

(3) in clause (iii) striking "or" immediately after "bribery";

(4) in clause (iii) inserting "deception of customers, moral turpitude or conduct inconsistent with just and equitable principles of trade," immediately after the word "gambling";

(5) in clause (iv) inserting "371," immediately after "152,"; and

(6) in clause (iv) inserting "or section 7203, 7204, 7205, or 7207 of the Internal Revenue Code of 1986," after "18,".

(h) Section 8a(3)(G) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(G)) is amended by--

(1) striking "material" the first place it appears, and inserting "materially";

(2) striking the comma after "application";

(3) inserting "or any update thereto," after "application";

(4) striking "thereunder, or" and inserting "thereunder,"; and

(5) inserting after "Commission" the words "or in any registration disqualification proceeding".

(i) Section 8a(3)(H) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(H)) is amended by--

(1) inserting immediately after "State court" ", in a United States military court,".

(j) Section 8a(3)(J) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(J)) is amended by--

(1) striking "or" after the first reference to "association";

(2) inserting "or any foreign regulatory body that the Commission has recognized as having a comparable regulatory program," after the first reference to "organization";

(3) striking "or" after the second reference to "association"; and

(4) striking "organization;" and inserting "organization, or foreign regulatory body;".

(k) Section 8a(3)(K)(i) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(K)(i)) is amended by--

(1) striking "or" after "bribery,"; and

(2) inserting ", deception of customers, or conduct inconsistent with just and equitable principles of trade," after "gambling".

SEC. 207. ENFORCEMENT OF CIVIL MONEY PENALTIES.

Section 6(d) of the Commodity Exchange Act (7 U.S.C. 9a), is amended to read as follows:

"(d)(1) In determining the amount of the money penalty assessed under paragraph (b), the Commission shall consider the appropriateness of such penalty to the gravity of the violation.

"(2) Unless the person against whom a money penalty is assessed under paragraph (b) shows to the satisfaction of the Commission within 15 days from the expiration of the period

allowed for payment of such penalty that either an appeal as authorized by paragraph (b) has been taken or payment of the full amount of the penalty then due has been made, at the end of such 15 day period and until such person shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made: (A) such person shall be prohibited automatically from trading on all contract markets and (B) if such person is registered with the Commission, such registration shall be suspended automatically.

"(3) If a person against whom a money penalty is assessed under paragraph (b) takes an appeal and if the Commission prevails or the appeal is dismissed, unless such person shows to satisfaction of the Commission that payment of the full amount of the penalty then due has been made by the end of 30 days from the date of judgment on the appeal: (A) such person shall be prohibited automatically from trading on all contract markets and (B) if such person is registered with the Commission, such registration shall be suspended automatically. If the person against whom the money penalty is assessed under paragraph (b) fails to pay such penalty after the lapse of the period allowed for appeal or after the affirmance of such penalty, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.".

SEC. 208. ETHICS TRAINING FOR REGISTRANTS.

(a) MANDATORY TRAINING FOR REGISTRANTS.--Section 4p of the

Commodity Exchange Act (7 U.S.C. 6p) is amended by:

(1) inserting "(1)" after "Sec. 4p."; and

(2) adding after the existing section 4p(1), as so redesignated, the following new subsection:

"(2) The Commission shall issue regulations to require new registrants, within six months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under this Act, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable Federal or State law, rule or regulation.".

(b) REGULATIONS.--The Commission shall issue the regulations required by section 4p(2) of the Commodity Exchange Act no later than 180 days after the effective date of this Act.

SEC. 209. NATIONWIDE SERVICE OF PROCESS AND VENUE.

Section 22(c) of the Commodity Exchange Act (7 U.S.C. 25(c)) is amended to read as follows:

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action shall be brought within two years after the date the cause of action accrues. Any action brought under subsection (a) may be brought in any district wherein the defendant is found or is an inhabitant or transacts business, or in the district wherein

any act or transaction constituting the violation occurred. Process in such action may be served in any district of which the defendant is an inhabitant or wherever the defendant may be found.".

SEC. 210. TRADING AHEAD.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by--

(1) striking "or" following the semicolon in clause (C);

(2) striking the period following clause (D), and inserting "; or"; and

(3) inserting after clause (D) a new clause (E) to read as follows:

"(E) to trade ahead of such order or contract.".

SEC. 211. PENALTIES FOR FELONY VIOLATIONS.

Section 9 of the Commodity Exchange Act (7 U.S.C. 13(b)) is amended:

(1) in subsection (a) by--

(a) striking "$500,000" and inserting "$1,000,000"; and

(b) striking "$100,000" and inserting "$500,000".

(2) in subsection (b) by--

(a) striking "$500,000" and inserting "$1,000,000"; and

(b) striking "$100,000" and inserting "$500,000".

(3) in subsection (d) by striking "$100,000" and inserting "$500,000".

(4) in subsection (e) by striking "$100,000" and inserting "$500,000".

SEC. 212. CONTRACT MARKET EMERGENCY ACTIONS.

(a) Prior Commission Consideration.--Section 5a(12) of the Commodity Exchange Act (7 U.S.C 7a(12)) is amended by--

(1) striking the last two sentences of paragraph (12); and

(2) inserting the following:

"The Commission shall issue regulations to specify the terms and conditions under which a contract market may, by a two-thirds vote of its governing board, in an emergency as defined by the Commission in such regulations, submit to the Commission any rule that such contract market proposes in response to such emergency (hereinafter referred to as an 'emergency rule'), along with a complete explanation of the emergency involved, and request that the Commission immediately approve such proposed emergency rule. Upon receipt from a contract market of a request for approval of an emergency rule the Commission shall expeditiously--

"(i) approve such emergency rule;

"(ii) disapprove such emergency rule; or

"(iii) determine that it lacks sufficient information or sufficient time to approve or disapprove such emergency rule.

If the Commission approves such emergency rule or determines it lacks sufficient information or sufficient time to approve or disapprove such emergency rule, the requesting contract market may, notwithstanding the 10-day notice requirement under this paragraph, make such emergency rule effective on a temporary basis upon notification by the Commission of such approval or

determination. If the Commission determines it lacks sufficient information or sufficient time to approve or disapprove such emergency rule, it shall file a report explaining the reasons for making such determination with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 30 days of such determination. Nothing in this paragraph shall be construed to limit the authority of the Commission under section 8a(9). Any action taken by the Commission with regard to an emergency rule shall be subject to judicial review in the same manner as provided in section 8a(9).".

(b) Regulations.--The Commodity Futures Trading Commission shall issue regulations to implement section 5a(12) of the Commodity Exchange Act, as added by section 212 of this Act, no later than 90 days after the date of enactment of this Act. During the period between the effective date of this Act and the effective date of such regulations, any regulation of the Commodity Futures Trading Commission that implements the last two sentences of section 5a(12), as these sentences read prior to the enactment of this Act, shall remain in effect.

SEC. 213. STUDY OF DELIVERY POINTS FOR AGRICULTURAL COMMODITY CONTRACTS.

(a) The Comptroller General of the United States shall conduct a study of the provision for, and functioning of, delivery points regarding contracts of sale for future delivery

of any agricultural commodity to determine whether the objectives of section 5a(10) of the Commodity Exchange Act are being achieved. The study shall examine such issues as whether the objectives of the Act relative to such delivery points need to be revised; whether the availability and adequacy of storage facilities for agricultural commodities at such delivery points affect prices; whether the number, accessibility, and volume of storage facilities at such delivery points contribute to consistency and reasonableness in price discovery in the contract market, and such other issues relating to such delivery points as the Comptroller determines relevant to the efficient operation and improvement of contract markets for agricultural commodities.

(b) Not later than one year after the date of enactment of this Act, the Comptroller shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection (a), together with any appropriate recommendations.

TITLE III. ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

SEC. 301. DEFINITION OF FOREIGN FUTURES AUTHORITY.

Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended by inserting at the end a new sentence as follows:

"The term 'foreign futures authority' means any foreign government, or any department, agency, governmental body or regulatory organization empowered by a foreign government to

administer or enforce laws, rules or regulations as they relate to futures or options matters, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce laws, rules or regulations as they relate to futures or options matters.".

SEC. 302. SUBPOENA AUTHORITY.

Section 6(b) of the Commodity Exchange Act (7 U.S.C. 15) is amended by inserting in the third sentence thereof following the word "Act" the second time it appears:

"or for purposes of any action taken under Section 12(f) of this Act,".

SEC. 303. COOPERATION WITH FOREIGN FUTURES AUTHORITIES.

Section 12(a) of the Commodity Exchange Act (7 U.S.C. 16(a)) is amended by inserting after "thereof," the following:

"any foreign futures authority, or any department or agency of a foreign government or political subdivision thereof,".

SEC. 304. INVESTIGATIVE ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding at the end the following new subsection:

"(f) On request from a foreign futures authority, the Commission may, in its discretion, provide assistance in accordance with this section if the requesting authority states that the requesting authority is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws, rules or regulations relating to futures or options matters that the

requesting authority administers or enforces. The Commission may conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States. In deciding whether to provide assistance under this section, the Commission shall consider whether (1) the requesting authority has agreed to provide reciprocal assistance to the Commission in futures and options matters; and (2) compliance with the request would prejudice the public interest of the United States. Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign futures authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to this section or in providing any other assistance to a foreign futures authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.".

SEC. 305. DISCLOSURE OF INFORMATION RECEIVED FROM FOREIGN FUTURES AUTHORITIES.

Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended--

(1) by inserting at the end of subsection 8(a)(1), as redesignated by section 203 of this Act, the following new

sentence:

"The Commission shall not be compelled to disclose any information or data obtained by the Commission from a foreign futures authority if the foreign futures authority has in good faith represented to the Commission that such disclosures would be contrary to the laws of the foreign country from which it was obtained; however, nothing in this subsection shall prevent the Commission from disclosing publicly any information or data obtained by the Commission from a foreign futures authority when such disclosure is made in connection with a congressional proceeding, an administrative or judicial proceeding commenced by the United States or the Commission, in any receivership proceeding commenced by the United States or the Commission, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code."; and

(2) by inserting at the end of subsection 8(b) the following new sentence:

"Nothing in this subsection shall apply to the disclosure of data or information obtained by the Commission from a foreign futures authority.".

SEC. 306. DISCLOSURE OF INFORMATION TO FOREIGN FUTURES AUTHORITIES.

Subsection (e) of section 8 of the Commodity Exchange Act (7 U.S.C. 12(e)) is amended--

(1) by inserting in the fifth sentence after "jurisdiction,"

the first time it appears the following:

"or any foreign futures authority";

(2) by inserting in the fifth sentence after "such" the following:

"foreign futures authority,"

(3) by inserting in the last sentence after "information to a" the following:

"foreign futures authority or to a";

(4) by inserting in the last sentence after "disclosed by such" the following:

"foreign futures authority,"; and

(5) by inserting in the last sentence after "or agency thereof" the following:

"or foreign futures authority".

TITLE IV. AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATE

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out this Act--

"(1) $40,000,000 for fiscal year 1990; and

"(2) $44,500,000 for fiscal year 1991.".

SEC. 402. EFFECTIVE DATE.

The provisions of, and amendments made by, this Act shall be effective upon enactment.

BRIEF EXPLANATION OF H.R. 2869

THE "COMMODITY FUTURES IMPROVEMENTS ACT OF 1989"

(AS REPORTED BY THE SUBCOMMITTEE
ON CONSERVATION, CREDIT AND RURAL DEVELOPMENT)

H.R. 2869 will amend the Commodity Exchange Act (Act) to prohibit dual trading by a floor broker in any contract market in which the Commodity Futures Trading Commission (CFTC) has determined the average daily trading volume to be equal to or greater than a threshold trading level. The bill will establish the threshold trading level at 7,000 contracts, and will provide that the CFTC may increase or decrease the threshold trading level if it determines that a change is warranted, considering the effects of the prohibition against dual trading on price volatility, bid-ask spreads, or the public interest.

The CFTC must issue an order exempting a contract market from the dual trading prohibition if the contract market can demonstrate that its surveillance systems and procedures, including its audit trail (1) can detect those instances of trading violations determined by the CFTC to be attributable to dual trading, and (2) is verifiable.

The bill will also limit trading among members of broker associations.

The bill will require each contract market to maintain an audit trail including such information as the CFTC determines necessary to rapidly reconstruct an accurate record of the transactions executed on such contract market. The time of execution of contract market transactions must be verifiable and must:

(1) be stated in one minute increments beginning not later than one year after enactment of the bill; and

(2) be stated in 30 second increments beginning not later than three years after enactment of the bill.

A board of trade must demonstrate to the CFTC that the board of trade's audit trail for all of the contract markets designated for such board of trade comply with the one minute and 30 second recording requirements before the CFTC can designate the board of trade as a contract market for any new contracts.

H.R. 2869 will require each registered futures association to adopt a rule specifying the factors it will consider in determining whether to require a member to adopt special supervisory procedures. Such procedures must include a three day "cooling off" period during which a member who solicited a new customer by telephone to open a futures or options account may not trade such account on behalf of the customer.

The bill will require the CFTC to continue to request the assistance of and cooperate with the appropriate Federal agencies in conducting investigations, including undercover operations, under the Commodity Exchange Act.

The bill will require the establishment of a system of contract market disciplinary committees and of a schedule of major violations of the rules of contract markets or registered futures associations. The bill will prohibit any person found to have committed a major violation of such contract market rules from service on the governing board or a disciplinary committee of any contract market or registered futures association. The bill will also require that outside members comprise at least 20 percent of the governing boards of contract markets and registered futures associations.

The bill will require the registration of floor traders, enhance the CFTC's and contract markets' authority to disqualify registrants, and provide for the suspension of registration and trading privileges for the nonpayment of civil money penalties. The bill will also require that registrants attend periodic ethics training sessions.

H.R. 2869 will require that contract markets submit all emergency rules to the CFTC for prior review.

The bill will make explicit that trading ahead is a felony, and increases the penalties for certain felony violations of the Act from $500,000 to $1 million, and from $100,000 to $500,000.

The bill will provide for nationwide service of process and venue for parties bringing a private right of action under the Act.

The bill will authorize the CFTC to cooperate with, offer investigative assistance to, accept information from, and disclose certain information to, foreign futures authorities.

H.R. 2869 will require the General Accounting Office to study the delivery points for agricultural commodities futures contracts.

The bill will authorize appropriations for the CFTC in the amount of $40 million for fiscal year 1990 and $44.5 million for fiscal year 1991.

SECTION-BY-SECTION ANALYSIS OF H.R. 2869,

THE COMMODITY FUTURES IMPROVEMENTS ACT OF 1989

AS REPORTED BY THE SUBCOMMITTEE ON CONSERVATION, CREDIT,

AND RURAL DEVELOPMENT

Section 1--Short title and table of contents.

Section 1 provides that the bill may be cited as the "Commodity Futures Improvements Act of 1989". It also contains the table of contents of the bill.

TITLE I--LIMITATIONS ON CERTAIN TRADING PRACTICES

Section 101--Dual trading.

Subsection (a) of section 101 will amend section 4j(1) of the Commodity Exchange Act (7 U.S.C. 6j(1)) by replacing the existing section 4j(1) with a new section 4j(1).

Paragraph (A) of the new section 4j(1) will require the Commission to issue regulations to prohibit dual trading[1] by a floor broker in any contract market in which the Commission has determined the average daily trading volume to be equal to or greater than the threshold trading level established pursuant to the new section 4j(1). For the purposes of section 4j(1), the threshold trading level is 7,000 contracts, based on a six month

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[1] "Dual trading" is commonly understood to refer to instances in which a floor broker trades for that broker's own account in a contract market the same day that the broker also executes a customer's order. The bill explicitly requires the Commission to develop a technical definition of this concept of dual trading and incorporate that definition in regulations issued under the new section 4j(1).

moving average of the number of contracts traded daily on the contract market. The Commission may provide for increases or decreases in the threshold trading level for specific contract markets if, in the judgement of the Commission, such a change is warranted. In determining whether such a change is warranted, the Commission must consider the effects of this paragraph on the liquidity of the contract market, price volatility, bid-ask spreads, and the public interest.[1] Any action by the Commission to adjust the threshold trading level of a contract market pursuant to section 4j(1)(A) must be reported and justified to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than 3 days after the Commission takes such action.

Paragraph (B) of the new section 4j(1) will provide that, if the Commission has not determined to prohibit dual trading in a contract market pursuant to the new section 4j(1)(C), the regulations issued by the Commission to implement section 4j(1)(A) for such contract market must--

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[1] As introduced, H.R. 2869 provided that if the Commission determines that the prohibition against dual trading under this section creates undesirable price volatility, unacceptable widening of bid-ask spreads, or otherwise threatens the public interest, the Commission was authorized to increase or decrease the threshold trading level for the contract market. The subcommittee amended this provision to eliminate the requirement that the Commission make a specific determination regarding the ban on dual trading in order to avoid opening the Commission's determinations to unnecessary litigation and to provide more flexibility to the Commission to avoid adverse market consequences from the ban.

(i) define the term 'dual trading';

(ii) specify the methodology used by the Commission to determine the average daily trading volume of contracts on a contract market;

(iii) provide for transition measures, as determined necessary by the Commission to prevent market disruption or to protect the public interest, for a contract market when the average daily trading volume on such contract market increases to or above, or decreases below, the threshold trading level;

(iv) provide that a floor broker may dual trade in a newly designated contract market until the average daily trading volume on such contract market has increased to or above the threshold trading level;

(v) provide for limited exceptions, as the Commission determines necessary, to the prohibition against dual trading required by the new section 4j(1)(A) with respect to spread trades and trades to correct errors;

(vi) provide that a floor broker affected by section 4j(1)(A) must indicate prior to the opening of trading for any given trading session whether such floor broker will trade solely for such broker's own account or solely for customers' accounts for the entire trading session, with limited exceptions as determined by the Commission pursuant to sections 4j(1)(A)(v) and 4j(1)(A)(vii); and

(vii) provide that a customer may designate an

individual floor broker to execute such customer's orders for future delivery and trade for such broker's own account, notwithstanding the provisions of section 4j(1)(A), if such customer, not less than once annually, executes a written form designating such broker by name.

Such regulations may also provide that if the average daily trading volume on a contract market increases to or above, or decreases below, the threshold trading level, any change in the status of dual trading otherwise required by section 4j(1)(A) may be delayed or suspended if the Commission determines that such increase or decrease is a temporary, unusual occurrence.

The new paragraph (C) of section 4j(1) essentially restates current law. It will provide that, notwithstanding paragraphs (A) and (B), the Commission must, as it determines necessary, make a determination from time to time, by rule, regulation or order, whether or not dual trading, as that term may be defined in regulations issued by the Commission, by a floor broker may be allowed in contract markets where such trading is not prohibited pursuant to paragraph (A). If the Commission determines that dual trading by a floor broker will be permitted, the Commission must further determine the terms, conditions, and circumstances under which such dual trading must be conducted. Any such determination must, at a minimum, take into account the effect of dual trading upon the liquidity of trading in each market. Nothing in section 4j(1) may be construed to prohibit the Commission from making separate determinations for different

contract markets when it is warranted in the judgment of the Commission, nor may section 4j(1) be construed to prohibit contract markets from setting terms and conditions more restrictive than those set by the Commission. This paragraph reserves the discretion currently afforded to the Commission to prohibit dual trading altogether or to restrict it more than is required under paragraphs (A) and (B).

The new paragraph (D) of section 4j(1) will require the Commission to issue an order to exempt a contract market from the dual trading prohibitions in paragraph (A) of section 4j(1) if the applicable board of trade can demonstrate to the Commission that the surveillance systems and procedures, including but not limited to the audit trail, for that contract market:

(i) can detect those instances of trading violations that the Commission determines to be attributable to dual trading, and

(ii) are verifiable.[3]

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[3] As introduced, H.R. 2869 provided that the Commission was to issue an order exempting an entire board of trade (rather than considering each contract market separately) if the board of trade could demonstrate that:

(i) its audit trail (rather than all the surveillance systems and procedures) can detect "any and all" (rather than "those") instances of trading violations that the Commission determines are attributable to dual trading; and
(ii) its audit trail is "fully" verifiable.

The subcommittee amendment provided that the exemption would be provided for the particular contract market rather than the particular board of trade as a whole in order to recognize that there can be differences in surveillance between contract markets at the same board of trade. It also recognizes the role that surveillance systems and procedures other than the audit trail play in detecting trading violations. The reference to "any and

The Commission must approve or deny any application by a board of trade for such an order no later than 60 days after receipt of the application. The Commission must report the issuance of any such order and justification to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than 3 days after the issuance of such order.[4]

In this context, "verifiable" means that the Commission can verify all aspects of the information provided by the surveillance systems and procedures.[5]

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all instances" was changed to "those instances" because it was felt that "any and all" required a totally infallible system, yet any system is susceptible to human error. Accordingly, the language was changed to read "those instances" in order to allow for human error, yet still hold these systems to the highest standard humanly and technologically attainable. This language does not permit any sort of tolerance level for not detecting trading violations.

[4] H.R. 2869 as introduced provided that any order by the Commission to exempt a board of trade from the dual trading prohibition in paragraph (A) pursuant to the new paragraph (D) would not become effective until after the expiration of 90 days after the date of transmittal of a report on the Commission's determinations regarding such board of trade to the House and Senate Agriculture Committees. The subcommittee amendment eliminates the 90 day layover requirement in order to allow a contract market to request an order exempting it from the ban on dual trading prior to the entry into effect of the ban. This will avoid the disruption that would occur to a contract market that qualifies under the strict standards for an order if it were forced to ban dual trading for a period only to reinstate it.

[5] As introduced, H.R. 2869 used the term "fully verifiable." The subcommittee amendment deletes the word fully since it is redundant. In order to be "verifiable", the information derived from the surveillance systems and procedures have to be verifiable in all aspects. The word fully does not add anything to this requirement.

Subsection (b)(1) of section 101 will require the Commission to issue the regulations required by the new section 4j(1)(B) of the Commodity Exchange Act (prohibiting dual trading when the trading volume is at or above the threshold trading levels set in section 4j(1)(A)) no later than 270 days after the date of enactment of the Commodity Futures Improvements Act of 1989. The Commission must issue regulations to implement section 4j(1)(D) of the Act no later than 240 days after the date of enactment of the bill.

Subsection (b)(2) of section 101 will provide that if, no later than 270 days after the date of enactment of the bill, a board of trade submits an application to the Commission for an order to exempt a contract market, pursuant to section 4j(1)(D) of the Commodity Exchange Act, from the dual trading ban in section 4j(1)(A) of the Commodity Exchange Act, the Commission may, pending the completion of the Commission's review of such application, temporarily waive the application of section 4j(1)(A) of the Commodity Exchange Act to that contract market if the Commission determines that there is a likelihood that the contract market meets the conditions of section 4j(1)(D) of the Commodity Exchange Act.

Section 102--Trading among members of broker associations.

Subsection (a) of section 102 will amend section 4j of the Commodity Exchange Act (7 U.S.C. 6j) by adding a new subsection (3) which will provide that it will be unlawful, pursuant to

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regulations issued by the Commission,--

(A) for a member of a broker association[6], for or on behalf of any customer, to execute a transaction such that another member of the same broker association, trading for such other member's own account, or the account of the association, takes the opposite side of the transaction;

(B) for any member of a broker association to trade with another member of the same broker association, whether such brokers are trading for their own accounts, for customers, or for the account of the broker association, if such transactions in any month total more than 25 percent of the broker's total transactions; and

(C) for any member of a broker association to engage in such other practices as the Commission determines necessary to prohibit or to curb abuses and otherwise protect the interests of customers from potential trading abuses by members of broker associations.

The regulations issued by the Commission must include a definition of the term 'broker association' and may provide for exceptions from the provisions of section 4j(3) of the Commodity Exchange Act in the case of trades executed through trading

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[6] "Broker association" is commonly understood to refer to instances in which floor brokers enter into formal or informal arrangements to share profits or other aspects of their business. The bill explicitly requires the Commission to develop a technical definition of this concept of broker associations and incorporate that definition in regulations issued under the new section 4j.

systems where the identity of the opposite broker is unknown at the time of the trade. Nothing in the new section 4j(3) may be construed to prohibit the Commission or contract markets from prohibiting trading by broker associations or their members, or from setting terms and conditions for such trading that are more restrictive than those set in the new section 4j(3). This preserves the current discretionary authority of the Commission to prohibit altogether, or be more restrictive of, broker association trading.

Subsection (b) of section 102 will require the Commission to issue regulations to implement the new section 4j(3) of the Commodity Exchange Act no later than 270 days after the date of enactment of the Commodity Futures Improvements Act of 1989.

Subsection (c) of section 102 will require the Commission to determine whether the public interest would best be served by placing restrictions on trading by broker associations and their members other than those provided under the bill, and whether such broker associations, or trading by such broker associations, should be prohibited. The Commission must report its determination and any recommendations by the Commission for regulatory or legislative initiatives to implement such recommendations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than 270 days after the effective date of the regulations required by section 102 of the Commodity Futures Improvements Act of 1989.

TITLE II--ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES

Section 201--Audit trails.

Subsection (a) of section 201 will amend section 4g(2) of the Commodity Exchange Act (7 U.S.C. 6g(2)) by--

(1) redesignating the existing section 4g(2) as section 4g(2)(A); and

(2) adding a new paragraph (B) that will require, in subparagraph (i), that each contract market maintain or cause to be maintained by its clearinghouse a single record that must show for each futures or options trade the transaction date, time of execution (as required by subparagraph (ii)), quantity, and, as applicable, underlying commodity, price or premium, delivery month or expiration date, whether the transaction involved a contract for future delivery or physical, put or a call, strike price, floor broker or floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, symbols indicating the buying and selling customer or option customer types and such other information as the Commission determines necessary. Such record shall enable the contract market to rapidly reconstruct an accurate record, as determined by the Commission, of the transactions executed on such contract market. This provision essentially codifies the existing regulatory provisions of the Commission regarding the maintenance of an audit trail.

The new subparagraph (ii) of section 4g(2)(B) will provide that, for the purposes of subparagraph (i), the time of execution of a transaction shall be verifiable and must--

(a) be stated within an increment of no more than one minute in length, beginning not later than one year after the effective date of the Commodity Futures Improvements Act of 1989; and

(b) be stated within an increment of no more than 30 seconds in length, beginning not later than three years after the effective date of the Commodity Futures Improvements Act of 1989.

The new subparagraph (iii) of section 4g(2)(B) will require the Commission to report on the status of compliance with the standards imposed by section 4g(2)(B) and report its findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 180 days after the expiration of one year, and again after the expiration of three years, from the date of enactment of the Commodity Futures Improvements Act of 1989, as specified in clauses (a) and (b) of the new section 4g(2)(B)(ii), respectively.

The new subparagraph (iii) of section 4g(2)(B) will require the Commission to--

(a) determine whether the record required by section 4g(2)(B) has enabled the affected contract markets to rapidly reconstruct an accurate, verifiable record of the

transactions executed on such contract markets, as determined necessary by the Commission to provide for the effective enforcement of the applicable provisions of the Commodity Exchange Act and the rules or regulations thereunder;

(b) determine whether the recording and reconstruction of the time and sequence of trades can more accurately represent the real times of such trades through the use of improved technologies or other means and determine whether any regulatory or legislative changes would be necessary or appropriate to implement such improvements; and

(c) report its findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than 5 years after the effective date of the Commodity Futures Improvements Act of 1989.

Subsection (b) of section 201 will amend section 5 of the Commodity Exchange Act (7 U.S.C. 7) by adding a new paragraph (h) that will require a board of trade, as a condition of being designated as a contract market, to demonstrate that every contract market for which such board of trade is designated maintains a single record, as required by section 4g(2)(B)(i), that shows for each futures or options trade the time of execution of trades as required by the new sections 4g(2)(B)(ii)(a) and 4g(2)(B)(ii)(b) of the Commodity Exchange Act.

Section 202--Telemarketing fraud.

Subsection (a) of section 202 will amend the Commodity Exchange Act by adding after section 17 (7 U.S.C. 21) the new subsection 17(s) that will require each registered futures association to adopt, subject to the approval of the Commission pursuant to section 17(j) of the Commodity Exchange Act, a rule specifying the factors such registered futures association will consider in determining whether to issue a summary member responsibility action or other disciplinary action to require a member to adopt special supervisory procedures relating to telephone solicitations for new futures or options customer accounts. Such procedures must, at a minimum, require that, with respect to an individual with no previous futures or options trading experience who was solicited by telephone, the member may not enter any order for such individual for a period of not less than three days after the individual signs the required acknowledgement of receipt of the applicable risk disclosure statement.

Section 203--Undercover operations and enforcement.

Section 203 will amend section 8(a) of the Commodity Exchange Act (7 U.S.C. 12(a)) by:

(a) redesignating the existing section 8(a) as section 8(a)(1); and

(b) inserting at the end of section 8(a)(1) a new section

8(a)(2) which will provide that in conducting investigations authorized by section 8(a), or any other provision of the Commodity Exchange Act, the Commission must continue, as the Commission determines necessary, to request the assistance of and cooperate with the appropriate Federal agencies in the conduct of such investigations, including undercover operations by such Federal agencies.

Section 204--Self regulatory organization disciplinary committees and governing boards.

Subsection (a) of section 204 will amend section 8c of the Commodity Exchange Act (7 U.S.C. 12c) by adding two new subsections to section 8c.

The new subsection (5) of section 8c will require the Commission to issue regulations to require the establishment of a system of contract market disciplinary committees. Under such system, each board of trade which has been designated as a contract market must--

(A) establish one or more disciplinary committees which will be authorized by the board of trade to determine whether violations of the rules of the board of trade have been committed, to accept offers of settlement, and to impose appropriate penalties;

(B) provide that disciplinary committees established pursuant to the new paragraph 8c(5)(A) be composed of members of the board of trade, or staff members of the board

of trade, such that the committee, or any hearing panel formed by the committee to conduct disciplinary hearings, is composed of a majority of persons who are of a different trading status than the respondent; and

(C) provide that a hearing panel formed by the committee to conduct disciplinary hearings may be composed of fewer than the total number of members of the committee.

For the purposes of the new section 8c(5)(B), a disciplinary committee member's trading status will be determined by whether such member is a: (1) floor broker or floor trader, (2) member of the board of trade other than a member who acts primarily as a floor broker or floor trader, or (3) staff member of the board of trade.

The new subsection (6)(A) of section 8c will require the Commission to issue regulations to require each contract market to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of the contract market. The regulations issued by the Commission pursuant to the new subsection (6) of section 8c must prohibit any individual found to have committed a major violation of any rule within the disciplinary jurisdiction of a contract market from service on the governing board of any contract market or registered futures association, or on any disciplinary committee thereof, for a period of time to be determined by the Commission.

Subsection (b) of section 204 will amend section 17 of the Commodity Exchange Act (7 U.S.C. 21) by adding a new subsection

(r) which will require the Commission to issue regulations requiring each registered futures association to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such registered futures association. The regulations issued by the Commission pursuant to the new subsection (r) must prohibit any member of a registered futures association found to have committed a major violation of any rule within the disciplinary jurisdiction of the registered futures association from service on the governing board of any registered futures association or contract market, or on any disciplinary committee thereof, for a period of time to be determined by the Commission.

Subsection (c)(1) of section 204 will amend section 5a of the Commodity Exchange Act (7 U.S.C. 7a) by adding a new paragraph (13) that will require each contract market to ensure that outside members, as defined in regulations issued by the Commission, comprise at least 20 percent of the contract market's governing board. Subsection (c)(2) of section 204 will amend section 17(b) of the Commodity Exchange Act (7 U.S.C. 21) by adding at the end a new paragraph (11) that will require that an applicant association must not be registered as a futures association unless the Commission finds, under standards established by the Commission, that at least 20 percent of the members of the governing board of the association are outside members, as defined in regulations issued by the Commission.

Subsection (d) of section 204 will require the Commission to

issue the regulations required by the new sections 5a(13), 8c(5), 8c(6), 17(b)(11) and 17(r) of the Commodity Exchange Act, as added by section 204, no later than 180 days after the effective date of the Commodity Futures Improvements Act of 1989.

Section 205--Required registration of floor traders.

Subsection (a) of section 205 will amend section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. section 2(a)(1)(A)) to define the words 'floor trader' to mean any person who, in or surrounding any 'pit', 'ring', 'post', or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell solely for such person's own account any commodity for future delivery on or subject to the rules of any contract market.

Subsection (b) of section 205 will amend section 4e of the Commodity Exchange Act (7 U.S.C. section 6e) to provide that it will be unlawful for any person to act as a floor trader in executing purchases and sales, or as a floor broker in executing any orders for the purchase or sale, of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person has registered, under the Commodity Exchange Act, with the Commission as such floor trader or floor broker and such registration has not expired nor been suspended nor revoked. The current section 4e makes it unlawful for floor brokers to trade without first registering with the Commission.

Section 205(b) of the bill will make it unlawful for floor traders, as well as floor brokers, to trade without such registration.

Subsection (c) of section 205 will amend section 4f(1) of the Commodity Exchange Act (7 U.S.C. section 6f(1)) to require that any person desiring to register as a floor trader will be registered upon application to the Commission.[7]

Subsection (d) of section 205 will amend section 4g(1) of the Commodity Exchange Act (7 U.S.C. 6g (1)) to require that every person registered as a floor trader must make such reports as are required by the Commission regarding the transactions and positions of such person; must keep books and records pertaining to such transactions and positions in such form and manner and for such period as may be required by the Commission; and shall keep such books and records open to inspection by any representative of the Commission or the United States Department of Justice. Currently, section 4g(1) makes these same reporting requirements applicable to every person registered as a futures commission merchant, introducing broker, or floor broker.

Subsection (e)(1) of section 205 will amend section 6d(1) of the Commodity Exchange Act (7 U.S.C. section 13a-2(1)) to include

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[7] Section 4f(1) currently requires that any person desiring to register as a futures commission merchant, introducing broker, or floor broker will be registered upon application to the Commission. Section 4f(1) provides that the application for registration must be made in the form and manner prescribed by the Commission, and provides for the expiration and renewal of such registrations.

floor traders among those persons against whom a State is not authorized to bring an action under the Commodity Exchange Act. Currently the persons against whom a State is not authorized to bring such action include a contract market, clearinghouse, or floor broker. Similarly, subsection (e)(2) of section 205 will amend section 6d(8)(A) of the Commodity Exchange Act (7 U.S.C. section 13a-2(8)(A)) to include floor traders among those persons against whom an authorized State official is prohibited from proceeding in a State court for an alleged violation of any antifraud provision of the Commodity Exchange Act, or any antifraud rule, regulation, or order issued pursuant to the Commodity Exchange Act.

Subsection (f) of section 205 will amend section 8a(1) of the Commodity Exchange Act (7 U.S.C. section 12a(1)) to authorize the Commission to register floor traders upon application in accordance with rules and regulations and in the form and manner prescribed by the Commission.[8]

Subsection (g)(1) of section 205 will amend section

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[8] Currently, section 8a(1) authorizes the Commission to register futures commission merchants, associated persons of futures commission merchants, introducing brokers, associated persons of introducing brokers, commodity trading advisors, associated persons of commodity trading advisors, commodity pool operators, associated persons of commodity pool operators, and floor brokers. Section 8a(1) also authorizes (1) the fingerprinting of applicants and associated persons of such applicants, (2) the submission of such fingerprints to the Attorney General, (3) the establishment of reasonable fees and charges for registrations, and (4) that the Commission may grant a temporary license to any applicant for registration for up to six months.

8a(2)(C)(i) of the Commodity Exchange Act (7 U.S.C. section 12a(2)(C)(i)) to authorize the Commission to refuse to register, to register conditionally, to suspend or to revoke the registration of any person if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as a floor broker.[9]

Subsection (g)(2) of section 205 will amend section 8a(2)(D)(ii) of the Commodity Exchange Act (7 U.S.C. section 12a(2)(D)(ii)) to authorize the Commission to refuse to register, to register conditionally, to suspend or to revoke the registration of any person if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that arises out of the conduct of the business of a floor trader.[10]

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[9] Section 8a(2)(C)(i) of the Commodity Exchange Act currently authorizes the Commission to refuse to register, to register conditionally, to suspend or to revoke the registration of any person if such person is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under the Commodity Exchange Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company, or affiliated person or employee of any of the foregoing.

[10] Currently section 8a(2)(D)(ii) of the Commodity Exchange Act authorizes the Commission to refuse to register, to register conditionally, to suspend or to revoke the registration of any person if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under the Commodity

Subsection (g)(3) of section 205 will amend section 8a(3)(E)(ii) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(E)(ii))[11] to authorize the Commission to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that such person was convicted of any misdemeanor which arises out of the conduct of the business of a floor trader.[12]

Subsection (h) of section 205 will require the Commission to issue any regulations necessary to implement the provisions of section 205 no later than 180 days after the date of enactment of the Commodity Futures Improvements Act of 1989.

Section 206--Enhancement of registration requirements.

Subsections (a) through (e) of section 206 will make various

Exchange Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company, or an affiliated person or employee of any of the foregoing.

[11] Section 8a(3)(E) is also amended in section 206(g).

[12] Currently section 8a(3)(E)(ii) of the Commodity Exchange Act authorizes the Commission to refuse to register or to register conditionally any person, if it is found, after opportunity for hearing, that such person was convicted within ten years preceding the filing of the application for registration or at any time thereafter of any misdemeanor which arises out of the conduct of the business of a futures commission merchant, introducing broker, floor broker, commodity trading advisor, commodity pool operator, associated person of any registrant under the Commodity Exchange Act, securities broker, securities dealer, municipal securities broker, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment advisor, investment company, or an affiliated person or employee of any of the foregoing.

amendments to section 8a(2) of the Commodity Exchange Act (7 U.S.C. 12a). Section 8a(2) of the Act currently outlines the conditions under which the Commission is authorized to refuse to register, to register conditionally, or to suspend or place restrictions upon the registration of, any person and (with such a hearing as may be appropriate) to revoke the registration of any person.

Subsection (a) of section 206 will amend section 8a(2)(C) of the Commodity Exchange Act to provide that a person's registration may not be revoked solely on the basis of an order, judgment or decree which is not deemed to constitute a disqualification from registration by the regulatory agency which initiated the injunctive action. Subsection (a) will also authorize the Commission to refuse, suspend, restrict or revoke a person's registration pursuant to section 8a(2) i such person is temporarily or permanently enjoined from engaging in or continuing any activity and the Commission determines that such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gambling or deception of customers.

Subsection (b) of section 206 will amend section 8a(2)(D)(iii) of the Commodity Exchange Act (7 U.S.C. 12a(2)(D)(iii)) to authorize the Commission to refuse, suspend, restrict or revoke a person's registration pursuant to section 8a(2), in addition to the bases in current law, if such person

has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that involves deception of customers. Currently section 8a(2)(D)(iii) authorizes the Commission to so act if such person has been convicted of any felony that involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, gambling, or bribery.

Subsection (c) of section 206 will amend section 8a(2)(D)(iv) of the Commodity Exchange Act (7 U.S.C. 12a(2)(D)(iv)) to authorize the Commission to refuse, suspend, restrict or revoke a person's registration pursuant to section 8a(2), in addition to the bases in current law, if such person has been convicted within ten years preceding the filing of the application for registration or at any time thereafter of any felony that involves the violation of section 371 (conspiracy), 1001 (false statements), 1503 (obstruction of justice), 1623 (perjury), 1961, 1962 and 1963 (racketeering), or 2314 (interstate transportation of stolen property) of title 18 of the U.S. Code governing crimes and criminal procedure, and sections 7201 or 7206 (tax evasion) of title 26 of the U.S. Code, the Internal Revenue Code.

Subsection (d) of section 206 will amend section 8a(2)(E)(iv) of the Commodity Exchange Act (7 U.S.C. 12a(2)(E)(iv)) to provide that the Commission may act under section 8a(2) against a person who has been found to have

violated the Commodity Exchange Act in a proceeding brought by the appropriate governmental body. Currently section 8a(2)(E) requires that such finding be made by a court of competent jurisdiction or the appropriate governmental body. Subsection (d) of section 206 will also amend section 8a(2)(E)(iv) to add to the list of grounds on which the Commission may act against a person under section 8a(2) the violation of the Racketeer Influenced Corrupt Organizations Act or the deception of customers by such person.

Subsection (e) of section 206 will amend section 8a(2)(G) of the Commodity Exchange Act (7 U.S.C. 12a(2)(G)) to expand the grounds under which the Commission may act against a person under section 8a(2) to include the willful making of any materially false statement or omission to state any material fact regarding any disqualification from registration under section 8a(2) or 8a(3) of the Act. Currently section 8a(2) of the Act disqualifies from registration any person who willfully makes any false or misleading statement or omitted to state any material fact in a registration application with respect to the matters set forth in section 8a(2)(A) through (F) of the Act.

Subsections (f) through (k) of section 206 will make various amendments to section 8a(3) of the Commodity Exchange Act (7 U.S.C. 12a(3)). Section 8a(3) of the Act currently outlines the conditions under which the Commission is authorized to refuse to register or to register conditionally any person who is found, after opportunity for hearing, to have violated certain laws,

regulations or orders, or to have committed other acts specified in section 8a(3).

Subsection (f) of section 206 will amend section 8a(3)(D) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(D)). Currently section 8a(3)(D) authorizes the Commission to disqualify from registration persons convicted, within ten years prior to the filing of a registration application, of felonies other than the types specified in section 8a(2)(D), as well as persons convicted of 8a(2)(D) type felonies more than ten years preceding the filing of an application. Section 206(e) of the bill will include instances when a person pleads guilty to, as well as actual convictions of, the named felonies as grounds for disqualification, and eliminate the ten year limit on felony convictions other than the type specified in section 8a(2).

Subsection (g) of section 206 will amend section 8a(3)(E) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(E)). Section 8a(3)(E) authorizes the Commission to disqualify from registration persons convicted, within ten years prior to the filing of a registration application, of certain serious misdemeanors enumerated in section 8a(3)(E). Section 206(g) of the bill will eliminate the ten year time limit and include instances when a person pleads guilty to, as well as actual convictions of, the named misdemeanors as grounds for disqualification. Section 206(g) will also add to the list of serious misdemeanors under section 8a(3)(E) those involving deception of customers, moral turpitude or conduct inconsistent

with just and equitable principles of trade, or the violation of section 371 (conspiracy), of title 18 of the U.S. Code governing crimes and criminal procedure, and sections 7203, 7204, 7205, or 7207 (tax evasion) of title 26 of the U.S. Code, the Internal Revenue Code.

Subsection (h) of section 206 will amend section 8a(3)(G) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(G)). Section 8a(3)(G) authorizes the Commission to disqualify from registration a person who willfully makes any materially false or misleading statement or who willfully omits to state any material fact in such person's application for registration, in any report required to be filed with the Commission, or in any proceeding before the Commission. Section 206(h) of the bill will make clear that the Commission is similarly authorized to disqualify from registration any person who makes such false and misleading statements or omissions in (1) updates to such a person's registration application, or (2) the course of a disqualification proceeding conducted under the Act.

Subsection (i) of section 206 will amend section 8a(3)(H) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(H)). Section 8a(3)(H) authorizes the Commission to disqualify from registration a person who pleads nolo contendere to criminal charges of felonious conduct, or who has been convicted in a state court or in a foreign court of conduct which would constitute a felony under Federal law if the offense had been committed under Federal jurisdiction. Section 206(i) of the bill

will amend section 8a(3)(H) to include convictions in United States military courts as those convictions potentially disqualifying a person from registration.

Subsection (j) of section 206 will amend section 8a(3)(J) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(J)). Section 8a(3)(J) authorizes the Commission to disqualify from registration a person who is subject to an outstanding order denying, suspending, or expelling such person from membership in a contract market, a registered futures association, or any other self-regulatory organization, or barring or suspending such person from being associated with any member or members of such contract market, registered futures association or self-regulatory organization. Section 206(j) of the bill will amend section 8a(3)(J) to include as authorized disqualifications from registration denials, bars, suspensions and expulsions from foreign regulatory organizations which the Commission has recognized as having a comparable regulatory program.

Subsection (k) of section 206 will amend section 8a(3)(K)(i) of the Commodity Exchange Act (7 U.S.C. section 12a(3)(K)(i)). Section 8a(3)(K)(i) authorizes the Commission to disqualify from registration a person who has been found by any court of competent jurisdiction or by any Federal or State agency or other governmental body, or by agreement of settlement to which any Federal or State agency or other governmental body is a party, to have violated any statute, rule, regulation or order thereunder which involves a serious offense such as embezzlement, theft,

extortion, fraud and the like. Section 206 of the bill will amend section 8a(3)(K)(i) to include deception of customers or conduct inconsistent with just and equitable principles of trade among the grounds for which the Commission is authorized to disqualify a person from registration.

Section 207--Enforcement of civil money penalties.

Section 207 will replace the existing section 6(d) of the Commodity Exchange Act (7 U.S.C. 9a). The new section 6(d)(1) will provide that, in determining the amount of the civil money penalty assessed under section 6(b), the Commission must consider the appropriateness of such penalty to the gravity of the violation. This amendment will eliminate the existing requirement that the Commission consider a wrongdoer's financial circumstances when assessing a civil money penalty.

The new section 6(d)(2) will provide that unless the person against whom a civil money penalty is assessed under section 6(b) shows to the satisfaction of the Commission within 15 days from the expiration of the period allowed for payment of such penalty that either an appeal as authorized by section 6(b) has been taken or payment of the full amount of the penalty then due has been made, at the end of such 15 day period and until such person shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made: (A) such person shall be prohibited automatically from trading on all contract markets and (B) if such person is registered with

the Commission, such registration shall be suspended automatically. In effect, this section will provide for the automatic suspension of a person's registration and the prohibition against trading on all exchanges by such person for failure to pay a civil money penalty to the Commission when due.

The new section 6(d)(3) will provide that, if a person against whom a money penalty is assessed under section 6(b) takes an appeal and if the Commission prevails or the appeal is dismissed, unless such person shows to the satisfaction of the Commission that payment of the full amount of the penalty then due has been made by the end of 30 days from the date of judgment on the appeal: (A) such person will be prohibited automatically from trading on all contract markets and (B) if such person is registered with the Commission, such registration will be suspended automatically. If the person upon whom the money penalty has been imposed fails to pay such penalty after the lapse of the period allowed for appeal or after the affirmance of such penalty, the Commission may refer the matter to the Attorney General who must recover such penalty by action in the appropriate United States district court.

Section 208--Ethics training for registrants.

Subsection (a) of section 208 will amend section 4p of the Commodity Exchange Act (7 U.S.C. 6p) by redesignating the existing section 4p as section 4p(1).

Subsection (b) of section 208 will add a new section 4p(2)

to the Commodity Exchange Act which will require the Commission to issue regulations to require new registrants, within six months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under the Commodity Exchange Act, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable Federal or State law, rule or regulation.

Subsection (c) of section 208 will require the Commission to issue the regulations required by the new section 4p(2) of the Commodity Exchange Act no later than 180 days after the date of enactment of the Commodity Futures Improvements Act of 1989.

Section 209--Nationwide service of process and venue.

Section 209 will amend section 22(c) of the Commodity Exchange Act (7 U.S.C. 25(c)) by adding a new sentence at the end thereof to provide that any action brought under section 22(a) may be brought in any district wherein the defendant is found or is an inhabitant or transacts business, or in the district wherein any act or transaction constituting the violation occurred, and process in such action may be served in any district of which the defendant is an inhabitant or wherever the

defendant may be found.[13]

Section 210--Trading ahead.

Section 210 will amend section 4b of the Commodity Exchange Act (7 U.S.C. 6b) by separately stating[14] in the list of those acts that are unlawful under that section[15] trading ahead[16] of another person's order or contract. These unlawful transactions are among the felonies punishable by a fine of up to $100,000 per individual, or up to $500,000 per other legal "person", and imprisonment for up to 5 years. (Note that section 211 of the bill will increase these penalties to $500,000 and $1,000,000, respectively.)

Section 211--Penalties for felony violations.

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[13] Section 22(c) currently provides that the United States district courts shall have exclusive jurisdiction of actions brought under section 22 of the Commodity Exchange Act. Any such action must be brought within two years after the date the cause of action accrued.

[14] Both the Department of Justice and the Commodity Futures Trading Commission have stated that trading ahead is currently a felony under the Commodity Exchange Act.

[15] This list currently consists of cheating, defrauding or attempting to cheat or defraud a customer, willfully making a false report regarding the result of such trade to a customer, willfully deceiving or attempting to deceive a customer, and bucketing of a customer order.

[16] "Trading ahead" is commonly understood to refer to instances in which a person, who has a customer's order in hand, also makes a trade for their own account in a manner that allows that person to profit from the fact that there was also a customer's order.

Section 211 will amend section 9 of the Commodity Exchange Act (7 U.S.C. 13) to increase the fines for felony violations of the Commodity Exchange Act from a maximum of $500,000 per person ($100,000 for any person who is an individual) to a maximum of $1,000,000 ($500,000 for any individual), plus the costs of prosecution.

Section 212--Contract market emergency actions.

Subsection (a) of section 212 will amend section 5a(12) of the Commodity Exchange Act (7 U.S.C 7a(12)) by striking the current provisions regarding emergency rules by contract markets[17] and substituting new emergency rule provisions. Subsection (a) would require the Commission to issue regulations to specify the terms and conditions under which a contract market may, in an emergency as defined by the Commission, submit to the Commission any rule that such contract market proposes in response to such emergency (hereinafter referred to as an 'emergency rule'), along with a complete explanation of the emergency involved, and request that the Commission immediately approve such proposed emergency rule. Upon receipt from a contract market of a request

[17] Section 5a(12) requires that each contract market must submit to the Commission prior to implementation all bylaws, rules, regulations, and resolutions issued by such contract market that relate to terms and conditions in contracts of sale to be executed on such contract market. The last two sentences of section 5a(12) allow each contract market, in the event of an emergency requiring immediate action, with a two-thirds vote of its governing board, to immediately make effective a temporary emergency rule dealing with such emergency if the contract market notifies the Commission of such action.

for approval of an emergency rule the Commission must expeditiously--

(i) approve such emergency rule;

(ii) disapprove such emergency rule; or

(iii) determine that it lacks sufficient information or sufficient time to approve or disapprove such emergency rule.

If the Commission approves such emergency rule or determines it lacks sufficient information or time to approve or disapprove such emergency rule, the requesting contract market may, notwithstanding the 10-day notice requirement for non-emergency contract market rules under section 5a(12), make such emergency rule effective on a temporary basis upon notification by the Commission of such approval or determination. If the Commission determines it lacks sufficient information or time to approve or disapprove such emergency rule, it shall file a report explaining the reasons for making such determination with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 30 days of such determination. Nothing in section 5a(12) of the Commodity Exchange Act is to be construed to limit the authority of the Commission to direct a contract market to take such emergency action under section 8a(9) of that Act as the Commission determines necessary. The amendment will also provide that any action taken by the Commission with regard to an emergency rule will be subject to judicial review in the same

manner as provided in section 8a(9) of the Commodity Exchange Act.

Subsection (b) of section 212 will require the Commodity Futures Trading Commission to issue regulations to implement section 5a(12) of the Commodity Exchange Act, as added by section 212 of the bill, no later than 90 days after the date of enactment of the bill. During the period between the effective date of the bill and the effective date of such regulations, any regulation of the Commodity Futures Trading Commission that implements the last two sentences of section 5a(12), as these sentences read prior to the enactment of the bill, shall remain in effect.

Section 213--Study of delivery points for agricultural commodity contracts.

Subsection (a) of section 213 will require the Comptroller General of the United States to conduct a study of the provision for, and functioning of, delivery points regarding contracts of sale for future delivery of any agricultural commodity to determine whether the objectives of section 5a(10) of the Commodity Exchange Act are being achieved.[18] The study will

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[18] Section 5a(10) requires each contract market to permit the delivery of any commodity, on contracts of sale thereof for future delivery, of such grade or grades, at such point or points and at such quality and locational price differentials as will tend to prevent or diminish price manipulation, market congestion, or the abnormal movement of such commodity in interstate commerce.

examine such issues as whether the objectives of the Act relative to such delivery points need to be revised; whether the availability and adequacy of storage facilities for agricultural commodities at such delivery points affect prices; whether the number, accessibility, and volume of storage facilities at such delivery points contribute to consistency and reasonableness in price discovery in the contract market, and such other issues relating to such delivery points as the Comptroller determines relevant to the efficient operation and improvement of contract markets for agricultural commodities.

Subsection (b) of section 213 will require the Comptroller to submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection 213(a) of the bill, together with any appropriate recommendations, not later than one year after the date of enactment of this Act.

TITLE III--ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

Section 301--Definition of foreign futures authority.

Section 301 will amend section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)) to define the term 'foreign futures authority' to mean any foreign government, or any department, agency, governmental body or regulatory organization

empowered by a foreign government to administer or enforce laws, rules or regulations as they relate to futures or options matters, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce laws, rules or regulations as they relate to futures or options matters.

Section 302--Subpoena authority.

Section 302 will amend section 6(b) of the Commodity Exchange Act (7 U.S.C. 15) to provide that, for the purposes of any action taken under the new section 12(f) of the Commodity Exchange Act, as proposed to be added by section 303 of the bill, any member of the Commission or any administrative law judge or other officer designated by the Commission may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry.

Section 303--Cooperation with foreign futures authorities.

Section 303 will amend section 12(a) of the Commodity Exchange Act (7 U.S.C. 16(a)) to provide that the Commission may cooperate with any foreign futures authority, or any department or agency of a foreign government or political subdivision

thereof.[19]

Section 304--Investigative assistance to foreign futures authorities

Section 304 will add a new subsection (f) to section 12 of the Commodity Exchange Act (7 U.S.C. 16) that will authorize the Commission, on request from a foreign futures authority, in the Commission's discretion, to provide assistance in accordance with section 12 of the Commodity Exchange Act if the requesting authority states that the requesting authority is conducting an investigation that the requesting authority deems necessary to determine whether any person has violated, is violating, or is about to violate any laws, rules or regulations relating to futures or options matters that the requesting authority administers or enforces. The Commission may conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States. In deciding whether to provide assistance under this section, the Commission must consider (1) whether the requesting authority has agreed to provide reciprocal assistance to the Commission in futures and options matters; and

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[19] Section 12(a) currently provides that the Commission may cooperate with any Department or Agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, or any person.

(2) whether compliance with the request would prejudice the public interest of the United States. The new section 12(f) will also provide that, notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign futures authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to this section or in providing any other assistance to a foreign futures authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.

Section 305--Disclosure of information received from foreign futures authorities.

Section 305 of the bill will amend section 8 of the Commodity Exchange Act (7 U.S.C. 12) by adding a new sentence at the end of subsection 8(a)(1) of the Act, as redesignated by section 203 of the bill, which will provide that the Commission may not be compelled to disclose any information or data obtained by the Commission from a foreign futures authority if the foreign futures authority has in good faith represented to the Commission that such disclosures would be contrary to the laws of the foreign country from which it was obtained; however, nothing in subsection 8(a) of the Commodity Exchange Act may prevent the Commission from disclosing publicly any information or data obtained by the Commission from a foreign futures authority when

such disclosure is made in connection with a congressional proceeding, an administrative or judicial proceeding commenced by the United States or the Commission, in any receivership proceeding commenced by the United States or the Commission, or in any bankruptcy proceeding in which the Commission has intervened or in which the Commission has the right to appear and be heard under title 11 of the United States Code.

Section 305 will also amend section 8(b) of the Commodity Exchange Act to provide that nothing in section 8(b) will apply to the disclosure of data or information obtained by the Commission from a foreign futures authority. Section 8(b) provides that the Commission may disclose publicly any data or information that would separately disclose the market positions, business transactions, trade secrets, or names of customers of any person when such disclosure is made in connection with a congressional proceeding or with certain enumerated administrative or judicial proceedings.

Section 306--Disclosure of information to foreign futures authorities.

Section 306 of the bill will amend section 8(e) of the Commodity Exchange Act (7 U.S.C. 12(e)) to provide that the Commission may, upon request, furnish to a foreign futures authority any information in the possession of the Commission obtained in connection with the administration of the Commodity Exchange Act. Section 306 will also prohibit the Commission from

furnishing any information to a foreign futures authority unless the Commission is convinced that the information will not be disclosed by such foreign futures authority except in certain adjudicatory proceedings to which such foreign futures authority is a party.

TITLE IV. AUTHORIZATION OF APPROPRIATIONS; EFFECTIVE DATE

Section 401--Authorization of appropriations.

Section 401 will amend section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) to authorize to be appropriated to carry out the Commodity Exchange Act--

(1) $40,000,000 for fiscal year 1990; and

(2) $44,500,000 for fiscal year 1991.

Section 402--Effective date.

Section 402 will provide that the provisions of, and amendments made by, the bill will be effective upon enactment of the Commodity Futures Improvements Act of 1989.

Statement for H.R. 2869

HON. GLENN ENGLISH

August 2, 1989

Mr. Chairman, when this Committee organized for the 101st Congress last February, you instructed the Conservation, Credit, and Rural Development Subcommittee to conduct a thorough review of the futures industry's regulatory structure before we considered reauthorization of the Commodity Futures Trading Commission.

We conducted that top-to-bottom review over a five-month period, and then developed a bill to set new standards for the detection of trading abuses. Tom Coleman, the ranking member of the Subcommittee, and I announced on June 29 what we intended to include in the bill. And we said that we would be soliciting help in making it more workable--but we would not compromise the standards that we were setting.

The Subcommittee conducted 15 hours of public hearings on H.R. 2869. We invited testimony from all segments of the industry. We invited the members of the President's Working Group on Financial Markets. And we invited anyone who asked to be heard. As a result of the information gathered at these hearings and in countless meetings, Tom Coleman and I offered amendments to our own bill at the markup by the Subcommittee last week.

Each of the amendments was crafted to make the bill more

workable, but we rejected all suggestions that would tend the weaken the high standards we were setting.

We included two major standards along with mechanisms to encourage compliance.

First we said that the exchanges must be able to detect those trading abuses which are attributable to dual trading. To require compliance, we ban dual trading in contracts that trade more than 7,000 contracts per day until the exchanges meet the standard.

And second, we said that within one year the exchanges must meet the current standard of timing trades to the minute and in three years the standard is raised to 30 seconds. To require compliance, an exchange which does not meet the standards cannot be approved for a new contract.

These are two different standards. The first deals with the use of the audit trail and all other surveillance programs and procedures in order to catch violators. The second deals with the ability of the exchanges to make a record of trades in the proper sequence and time. Meeting the second standard will make it easier to meet the first standard, but meeting the first standard does not mean the second standard has been met.

I would like to go quickly through the provisions of H.R. 2869.

Title I is the ban on dual trading which will lead the exchanges to improving their total surveillance operations, including the audit trail, so that they can detect trading abuses

which are attributable to dual trading. We have included a number of protections that CFTC can use to correct unexpected damage to the markets. We have also included authority to recognize certain instances of dual trading which are necessary to make the markets work. These protections are not intended to be used for wholesale exemptions from the dual trading ban.

Instead, we have included an exemption from the ban when an exchange meets the high standard of detecting trading abuses. This exemption is available only when an exchange can demonstrate that a particular pit or ring meets this standard, and CFTC can verify that the standard has been met. To make sure that everyone is clear about this point, I asked the Committee's counsel to include wording to this effect in the section by section analysis. We expect this standard to be met as tightly as technologically and humanly possible, and we do not intend that the Commission will set out any "tolerance factor" in advance. Furthermore, it is our intention that the word verifiable means exactly that--the Commission can verify the ability of the surveillance operations in all aspects to detect trading abuses.

The bill establishes a procedure under which an exchange which believes it meets the detection standard can apply for the exemption before the dual trading ban goes into effect. The regulations for the detection standard are to be issued no later than 240 days after enactment of the bill, and the regulations for the dual trading ban are to be issued no later than 270 days.

An exchange can apply for the exemption anytime before the 270 days. If it appears to CFTC that the application will be successful, it can temporarily waive the dual trading ban until it can make a final determination on the application. CFTC is required to act within 60 days after receiving an application.

I want to make clear the intention of the provision which allows a customer to designate a floor broker to dual trade for the customer. We intend to give the customer the right to name more than one floor broker. We intend that a commodity pool operator who is making trading decisions for a pool be recognized as a customer for purposes of designating a floor broker. And, likewise, we intend that a commodity trading advisor who has been given discretion to trade for a customer can designate a floor broker provided the CTA discloses to the customer that intention.

We included a section on broker associations to be sure that members of an association cannot trade among themselves in such a manner that they can escape the ban against dual trading. Again, we allowed the Commission to recognize potential problems such as the possibility that a computerized trading system does not allow a trader to know who takes an opposite position.

Title II sets up the second standard--the improvement of timing of trading on the floor. Some have asked why we put in the bill that the current one-minute standard must be met in one year. The standard was established by regulation nearly two years ago but no exchange can meet that standard today. We put teeth in the standard and gave the exchanges an additional year.

Then we added a higher standard--time to 30 seconds by the end of three years. It is our intention that exchanges will begin to utilize technological advances which can provide better customer protection. We use the word accurate to describe the goal, and we mean that the timing must be as accurate as technology and human endeavor can make it. Furthermore, we expect that the entire industry will work continually toward the goal of recording the real time of trades. The teeth we included in this title is that no new contracts can be approved for an exchange which does not meet the one-minute and 30-second standards by deadline times.

This title also includes a section on telemarketing fraud aimed at protecting a naive customer from high-pressure sales tactics. The wording in this section was developed by the regulators to provide the most effective policing possible.

Another section in Title II is designed to warn the industry that there may be an undercover operation in effect at any time. Persons who might otherwise be tempted to cheat or defraud customers will know that they might well be caught and punished.

The fourth section in Title II deals with disciplinary committees and governing boards.

First, it requires the Commission to establish a system of disciplinary committees that removes the pressure toward leniency that can occur when, for instance, a group of floor members must find another floor member guilty and then face him later in the day in the trading pit.

Secondly, it requires that major violations be defined and no violator of them will be allowed to sit on governing boards or disciplinary committees for a period of time.

Thirdly, it requires that governing boards include at least 20 percent outside members.

The fifth section of Title II requires registration of floor traders. This category, composed of persons who trade on the floor only for their own accounts, has previously been excluded from registration. The industry as a whole supports this requirement which was requested by the Commission.

The sixth section of Title II enhances the statutory reasons for which registration may be refused, refused conditionally, suspended, or revoked.

The seventh section of Title II gives the Commission stronger authority in assessing and collecting civil penalties for violators. The Commission asked for this authority.

The eighth section of Title II includes mandatory training in ethical behavior for persons in the industry.

The ninth section of Title II provides nationwide service of process and venue so that a customer who believes he has been wronged may sue where he lives, where the transaction occurred, or where the defendant lives, works or is found. The Commission asked for this change.

The tenth section of Title II was added to the bill by amendment in the Subcommittee markup. It makes the trading abuse of trading ahead of an order or contract a felony.

The eleventh section, also added by amendment, increases the fine schedule for felonies and misdemeanors.

The twelfth section was added by amendment. It requires that exchanges must notify the Commission before they take emergency actions, and it further requires the Commission to approve, disapprove, or find that there is not enough information or time to make such a decision. The exchange can act unless disapproval is given by the Commission.

The thirteenth section of Title II was added by amendment and requires the General Accounting Office to conduct a study of delivery points for contract markets.

Title III deals with assistance to foreign futures authorities to facilitate cooperation and action between the CFTC and its counterparts as the industry moves toward worldwide trading. The Commission requested this authority.

Title IV is the mechanism by which this Committee notifies the nation that the Commodity Futures Trading Commission is a permanent agency that is not subject to going out of existence every three or four years. The process of authorizing appropriations for specific amounts for specific fiscal years is exactly the same process used for the Department of Defense and the Securities and Exchange Commission. The amount specified includes for FY 1990 the amount contained in the appropriation bill recently passed by the House plus a contingency in the event a supplemental appropriation is required. The amount specified for FY 1991 includes funds to increase the CFTC by 80 employees.

AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE JERRY HUCKABY

To require minimum margin levels of 15 percent for equity index futures contracts, except for bona fide hedge transactions

Insert at the end of title II the following new section:

SEC. . **MARGINS ON EQUITY INDEX INSTRUMENTS.**

(a) COMMISSION RULES RELATING TO MARGIN ON EQUITY INDEX INSTRUMENTS.--Section 2(a) of the Commodity Exchange Act (7 U.S.C. 4a) is amended by adding the following:

"(12) The Commission shall issue regulations to require contract markets to provide that the margin level initially required and subsequently maintained on any contract of sale for future delivery of a group or index of equity securities (or any interest therein or based upon the value thereof), other than those determined by the Commission to have been purchased or sold to effect a bona fide hedge transaction, is at least equivalent to 15 percent of the value of such contracts.".

(b) CONFORMING AMENDMENTS.--(1) Section 8a(7)(C) of the Commodity Exchange Act (7 U.S.C. 12a(7)(C)) is amended to read as follows:

"(C) other trading requirements, excepting the setting of levels of margin other than as required by section 2(a)(12).".

(2) Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by--

(1) striking "margir." in the first sentence and inserting " margin other than as required pursuant to

section 2a(12)."; and

(2) inserting "other than as required pursuant to section 2a(12)" after "levels of margin" in the second sentence.

(c) REGULATIONS.--The Commodity Futures Trading Commission shall issue the regulations required by this section no later than 180 days after the date of enactment of this Act.

JERRY HUCKABY
5TH DISTRICT, LOUISIANA

COMMITTEE ON AGRICULTURE
CHAIRMAN—SUBCOMMITTEE ON
COTTON, RICE AND SUGAR

COMMITTEE ON THE BUDGET

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THE POWER OF LEVERAGE IN CHICAGO

THE PRICE OF ONE "S & P 500" CONTRACT IS APPROXIMATELY $175,000. CASH REQUIRED TO BUY IS APPROXIMATELY 2% WHICH EQUALS $3,500. THUS, FOR $3,500, YOU CAN CONTROL A $175,000 CONTRACT.

If the market increases one percent in a day (i.e., Dow going from 2500 to 2525 - this happens frequently), then your Chicago S & P investment increases $1,750, a whopping 50 percent increase in your investment in one day. This is gambling at its very best. Billions of dollars are traded this way each day.

After the market crash, the Chicago Mercantile Exchange touted that it had increased its margin requirement to 15 percent. The Brady Report on the stock market crash called for minimum requirements of 20 to 25 percent. As the market has recovered from the crash, the Chicago Mercantile Exchange has lowered its margin to near record lows (approximately 2%), prompting cries of alarm from the SEC, while the CFTC sits idly on the sidelines. The Huckaby amendment merely says that the minimum margin requirement is 15 percent.

Stock Index Margin Talking Points

1. To require prior approval of futures margin levels in designation or subsequent rule changes would reduce the exchange's ability to respond rapidly to changes in volatility and by adjusting margin.

2. Currently, initial margins for stock index futures range from 3% to 16% of contract value rather than the 1.6% to 4% level stated by the SEC in its June 30, 1989 memorandum on program trading.

3. The Working Group's careful analysis of whether stock and stock index futures margins were set at prudential levels found that stock index futures margins were set at prudential levels. Recent reductions in margin levels generally have been consistent with the reduction in volatility which has occurred over the last six months.

4. The Working Group considered the relationship between margins and price volatility. Chairman Gramm, the Treasury and Chairman Greenspan "do not believe that the evidence supports the conclusion that higher margins will reduce volatility." Chairman Ruder disagrees. (p. 6, Interim Report of the Working Group on Financial Markets, May 1988).

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5. As noted by the Working Group, there are a number of reasons why futures margin performance deposits differ from levels appropriate for individual stocks. These include:

   1. The substantially longer period for payment of securities (ranging from 3-5 days) versus the daily (or intraday) period for payment of futures losses.

   2. The substantially lower margins that should be afforded any instrument based on a stock index compared to the higher volatility of an individual stock.

6. It should be noted that participation in stock index futures is overwhelming that of commercial participants particularly including those that have offsetting cash market or other positions. Therefore the risk approaches zero in contrast to a higher proportion of participation in the stock market that have a full exposure to price change.

7. It has been the practice both before and after October 19, 1987 for futures exchanges to set margin levels for individual futures contracts and to change those levels in response to price volatility so as to maintain prudential levels of protection for the clearinghouse.

8. The Commission and the futures exchanges have actively participated in attempts to implement changes in market mechanisms which the Working Group did identify as being of potential significant benefit to the markets (e.g., the enhancement of intraday futures margin collection procedures and the coordination of futures and securities payment systems.

9. The futures margining system is based upon frequent and generally small realizations of losses as evidenced by the daily or intraday collection of losses and the frequent revision of margin levels to reflect current volatility. In contrast, the securities margin system generally relies on substantially less frequent payment and collection of losses and adjustment of margin levels. Thus, the substitution of one of the securities-like elements or margin levels into the futures margin system ignores, at the peril of the system, the significant differences in the overall functioning of the respective systems.

Amendment Offered by Mr. Rose
(to Section 201, "Audit Trail")

On page 10, beginning on line 12, delete "every," strike line 13, and insert in lieu thereof "it"

Brief Explanation of Amendment Offered by Mr. Rose

The current language in the bill would prohibit new contract designations if any single contract market on a board of trade fails to meet audit trail standards. While it is imperative that exchanges be required to meet high standards and fulfill self-policing responsibilities, it is also important that a problem in one pit not act to preclude any new contracts from being approved.

The appropriate test for a board of trade applying for a new contract is to review the effectiveness of the exchange's overall surveillance system. Surveillance systems, including audit trails, are exchange wide and do not vary from pit to pit.

This amendment will prevent this particular provision from being viewed as a Tokyo Futures Exchange Relief Act for the simple reason that, without this amendment, our foreign competitors, who are less regulated, would otherwise have greater leeway to innovate and introduce new contracts.

Historically, in the futures industry, the first exchange to bring up a new contract dominates that market. Allowing foreign exchanges to begin trading new contracts in a less regulated environment while U.S. exchanges are prevented from innovating in a heavily regulated industry would give a competitive head start to our foreign competition.

Adoption of my amendment will allow our U.S. exchanges the opportunity to compete fairly with their foreign competition in their own U.S. futures markets.

AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE DAN GLICKMAN

To prohibit abuse of hedging exemptions

At the end of title II of the bill insert the following new section:

SEC. . MONITORING OF HEDGE EXEMPTIONS.

Section 4a(3) of the Commodity Exchange Act (7 U.S.C. 6a(3)) is amended by--

(1) striking the third sentence; and

(2) adding the following:

"The Commission shall issue regulations to require each contract market to monitor closely the trading activities of any person granted an exemption from subsection (1) under this subsection to ensure that such person has not acquired or maintains any position in excess of a bona fide hedging position or otherwise acts in a manner inconsistent with the conditions for an exemption granted under this subsection. In the event that the contract market determines that such person has acquired or maintains a position in excess of a bona fide hedging position or is otherwise acting in a manner inconsistent with the conditions for such exemption, the contract market shall notify such person and take such action as is appropriate under the circumstances. Nothing in this subsection shall be construed to affect the Commission's or a contract market's authority to act immediately to restrict such person's transactions or positions ~~to~~ in accordance with the limits established under this section.".

AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE DAN GLICKMAN

To prohibit abuse of hedging exemptions

At the end of title II of the bill insert the following new section:

SEC. . MONITORING OF HEDGE EXEMPTIONS.

Section 4a(3) of the Commodity Exchange Act (7 U.S.C. 6a(3)) is amended by--

(1) striking the third sentence; and

(2) adding the following:

"The Commission shall issue regulations to require each contract market to monitor closely the trading activities of any person granted an exemption from subsection (1) under this subsection to ensure that such person has not acquired or maintains any position in excess of a bona fide hedging position or otherwise acts in a manner inconsistent with the conditions for an exemption granted under this subsection. In the event that the contract market determines that such person has acquired or maintains a position in excess of a bona fide hedging position or is otherwise acting in a manner inconsistent with the conditions for such exemption, the contract market shall notify such person and take such action as is appropriate under the circumstances. Nothing in this subsection shall be construed to affect the Commission's or a contract market's authority to act immediately to restrict such person's transactions or positions ~~to~~ in accordance with the limits established under this section.".

any position limit established pursuant to this section other than what is shown to be

or otherwise exempt pursuant to this section,

Amendment to H.R. 2869 as reported by the Subcommittee

Offered by Mr. Gunderson

On page 27, after line 6, insert the following new section:

Sec. 214. COMPETITIVENESS STUDY.

Within 18 months following the enactment of this Act, the Commission shall study the competitiveness of boards of trade over which it has jurisdiction compared with the boards of trade (or their foreign equivalent) over which foreign futures authorities, as defined in section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2), have jurisdiction, and report its findings back to Congress by the end of that period with respect to: (1) the overall competitive status of United States boards of trade in the world market; (2) a comparison of applicable statutes, rules or regulations as they relate to futures and options administered and enforced by the Commission and those administered and enforced by foreign futures authorities; (3) any trends in, or movements of, volume to or from the United States boards of trade during the period of the study; (4) whether the trends or movements, if any, were the result of the adoption of statutes, regulations, or other enforcement mechanisms in foreign countries or the united States; and (5) any recommendations the Commission may have as a result of its study to enhance the competitive status of the United States boards of trade in the world market that will not impair customer confidence in those boards of trade."

EXPLANATION:

This amendment would authorize the Commission to conduct an 18 month study on the competitiveness of U.S. boards of trade, compared with boards of trade (or their foreign equivalent) in foreign competing countries. The study would focus on the competitive status of U.S. boards of trade, any movements of volume in the boards of trade, and to what extent, if any, recently adopted statutory revisions in the U.S. and foreign countries had on the issue.

AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE MR. NAGLE AND THE HONORABLE MR. GRANDY

To prohibit insider information

Add to subsection (a) of the proposed Section 214 (to be added on page 26, after line 18), a new subsection (h) to follow subsection (g):

"(h) It shall be a felony for any individual willfully, and in violation of regulations issued by the Commission, to disclose any material, non-public information as to present or anticipated cash commodity transactions or commodity contract transactions by any person of whom such individual is a principal or employee, if such present or anticipated transactions, in the aggregate, are in amounts greater than the reporting levels specified by the Commission pursuant to section 4i and if such disclosure is with the intent that any recipient of the information engage in commodity contract transactions on the basis of the disclosed information, and such disclosure is unrelated to the legitimate business of the person of whom the individual is a principal or employee. For purposes of this subsection, the terms 'commodity contract transaction' and 'principal' shall have the same meaning as defined in subsection 9(g). Such felony shall be punishable by a fine of not more than $500,000 plus that amount of any profits realized from such disclosure in violation of this subsection, or imprisonment for not more than five years, or both, together with the costs of prosecution.".

AN AMENDMENT TO H.R. 2869

OFFERED BY

THE HONORABLE MR. NAGLE AND THE HONORABLE MR. GRANDY

To prohibit insider trading

On page 26, after line 18, insert the following new section:

SEC. 214. PROHIBITION AGAINST INSIDER TRADING.

(a) PROHIBITION.--Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by adding the following:

"(f) It shall be a felony for any person who is--

"(1) an employee, member of the governing board, or member of any committee; of

"(2) a board of trade, contract market, or registered futures association

to willfully use or disclose, in violation of regulations adopted by the Commission, for any purpose other than the performance of such person's official duties as such employee or member, any material, non-public information obtained in the performance of such duties. Such felony shall be punishable by a fine of not more than $500,000 plus that amount of any profits realized from such use or disclosure made in violation of this subsection, or imprisonment for not more than five years, or both, together with the costs of prosecution.

"(g) It shall be a felony for any individual willfully, and in violation of regulations issued by the Commission, to use as the basis for any commodity contract transaction for the account of such individual any material, non-public information as to present or anticipated cash commodity transactions or commodity

contract transactions by any person of whom such individual is a principal or employee, if such present or anticipated transactions, in the aggregate, are in amounts greater than the reporting levels specified by the Commission pursuant to section 4i. For purposes of this subsection, the term 'commodity contract transaction' shall mean any transaction in a contract for the purchase or sale of any commodity for future delivery, or in any option to purchase or sell any commodity or any such contract, made or to be made on or subject to the rules of any contract market; and the term 'principal' shall mean a general partner, officer, director, or individual occupying a similar status or performing similar functions, and any holder or beneficial owner of 10% or more of the outstanding shares of any class of stock of the person. Such felony shall be punishable by a fine of not more than $500,000 plus that amount of any profits realized from such use in violation of this subsection, or imprisonment for not more than five years, or both, together with the costs of prosecution.".

(b) REGULATIONS.--The Commission shall issue regulations to implement this section not later than 360 days following the date of enactment of this Act.

PROPOSED REPORT LANGUAGE

TO ACCOMPANY AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE MR. NAGLE AND THE HONORABLE MR. GRANDY

To prohibit insider trading

It is the intent of the Committee that in drafting the regulations to implement Section 9(g), the Commission will exempt any transaction or class of transactions that would not be contrary to the public interest or otherwise inconsistent with the purposes of this section. Such exemptions should include, but not be limited to, transactions in which commodity producers who are also employees, officers, or directors of country grain elevators or other entities included within the scope of Section 9(g), establish or liquidate bona fide hedges covering their own production.

BRIEF EXPLANATION

OF AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE MR. NAGLE AND THE HONORABLE MR. GRANDY

To prohibit insider trading

The amendment adds a new subsection 9(f) to the Commodity Exchange Act that will make it a felony for an employee, member of the governing board, or member of any committee of a self-regulatory organization to use or disclose material, non-public information for any non-job related purpose. Current CFTC regulations (17 CFR 1.59) prohibit such activity. This amendment will add criminal sanctions to the existing administrative remedies.

The amendment adds a new subsection 9(g) to the Commodity Exchange Act that will make it a felony for any employee or officer to trade for their personal account based upon information about their employer's or company's anticipated cash or futures transactions.

These felonies would be punishable by a fine of not more than $500,000 plus any profits realized from insider trading, or imprisonment for not more than five years, or both, together with the costs of prosecution.

The Commission is to issue regulations to implement this section not later than 360 days following enactment.

Amendment to H.R. 2869 as reported by the Subcommittee

Offered by Mr. Coleman

Strike all from line 5 through line 13, page 23.

U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

August 1, 1989

The Honorable E de la Garza
Chairman
Committee on Agriculture
U. S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is to proffer the views of the Department of Justice regarding amendments to H.R. 2869, the proposed Commodity Futures Improvement Act, which were adopted by the Subcommittee on Conservation, Credit and Rural Development on July 26, 1989. These amendments, offered by Congressman Tallon, would enact criminal sanctions for an abuse arising from dual trading on futures exchanges. Under these amendments, "front running," in which a broker trades for his own account ahead of his customers, would be prohibited specifically and a knowing violation of that prohibition would be punishable as a felony.

The Department has reviewed the amendments and has determined that the existing antifraud provisions of the Commodity Exchange Act as well as the mail and wire fraud provisions of Title 18 provide ample statutory authority to proceed against front running offenses. Moreover, prosecution of front running offenses would not be facilitated by these amendments. While other abuses may be remedied by new legislation, front running is in our opinion a violation of the Commodity Exchange Act and Title 18 and thus is adequately addressed by existing law. Accordingly, we urge that these amendments be deleted from H.R. 2869 when the measure is considered by the full Committee.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Carol T. Crawford
Assistant Attorney General

REPORT LANGUAGE

REGARDING SECTION 210 OF H.R. 2869

BY THE HONORABLE ROBIN TALLON

Section 210 of the bill, which adds a new clause (E) to section 4b of the Commodity Exchange Act to prohibit trading ahead of a customer order, is not intended to affect any pending legal action. Rather, it is intended to make explicit existing requirements that floor brokers, futures commission merchants, and their employees may not wilfully trade ahead of customer orders.

PROPOSED MODIFICATION TO SECTION 212 OF H.R. 2869

OFFERED BY THE HONORABLE JILL LONG

To require prior CFTC notification of exchange emergency actions

Strike all that appears beginning on page 24, line 1 and ending on page 25, line 20 and insert the appropriate legal language to accomplish the following:

1. A contract market must make every effort to give CFTC notification prior to instituting an emergency action.

2. An exchange can make effective an emergency action with a 2/3 vote of its governing board under the process currently provided in section 5a(12) of the Commodity Exchange Act.

3. The CFTC retains the right to overturn or disapprove a contract market emergency action, as under current law.

4. The CFTC must report its approval or disapproval, along with a justification for such determination, of such emergency action within 10 days or as soon a practicable to the contract market and to the House and Senate Agriculture Committees. If the 10 day period is exceeded the Commission shall provide a full explanation of the necessity for such delay.

5. The CFTC can delegate the power to receive a contract market's prior notification from the contract market.

SEC. 206. Enhancement of Registration Requirements

page 17, lines 8 through 12: strike entire insert (amendment (1) of Section 8a(2)(E)) ("or solely on the basis of an order, judgment or decree which is not deemed to constitute a disqualification from registration by the regulatory agency which initiated the injunctive action").

page 17, lines 13 through 19: clause ii should read "engaging in or continuing any activity where such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gambling, or any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 4c or 19 of this Act, or concerning securities";

page 17, lines 24 through 25: delete amendments (1) and (2) of Section 8a(2)(D)(iii).

page 18, line 1: delete "371."

page 18, lines 15 through 18: delete amendments (3) and (4) to clause (i) of Section 8a(2)(E)

page 19, lines 16 through 21: delete amendments (3) and (4) of clause (iii) of Section 8a(3)(E).

page 19, lines 22 through 23: delete amendment (5) of clause (iv) of Section 8a(3)(E).

page 20, lines 1 through 5: delete both amendments ((1) and (2)) of Section 8a(3)(K)(i).

AN AMENDMENT TO H.R. 2869

OFFERED BY THE HONORABLE JILL LONG

To require prior CFTC notification of exchange emergency actions

Strike section 212 of the bill and insert:

SEC. 212. EXCHANGE EMERGENCY ACTIONS.

(a) Prior Commission Notification Required.--Section 5a(12) of the Commodity Exchange Act (7 U.S.C. 7a(12)) is amended by--

(1) striking the word "immediately" and inserting ", notwithstanding the ten-day notice requirement of this paragraph," in the last sentence;

(2) striking "notifies" and inserting "makes every effort to give prior notification to" in the last sentence;

(2) adding at the end the following sentence:

"The Commission may delegate the power to receive such notification to such individuals as it deems necessary and appropriate. Within ten days of the receipt from a contract market of notification of an emergency action and an explanation of the emergency involved, or as soon as practicable, the Commission shall --

"(i) approve such emergency rule;

"(ii) disapprove such emergency rule; and

"(iii) file a report justifying its approval or disapproval of such emergency with the affected contract market, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

If the report required by clause (iii) is not filed within ten days the Commission shall provide a full explanation and

justification of the necessity for such delay. Nothing in this paragraph shall be construed to limit the authority of the Commission under section 8a(9) of this Act.".

TECHNICAL AMENDMENT TO H.R. 2869

OFFERED BY MR DE LA GARZA

At the end of the table of contents add the following:

Sec. 403. Technical amendments.

At the end of the amendment add the following:

SEC. 403. TECHNICAL AMENDMENTS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended--

(1) by striking ``commission'' in--

(A) section 4a each place it appears;

(B) section 6(b), as so redesignated by section 207(a)(1), each place it appears;

(C) section 6(c), as so redesignated by section 207(a)(1);

(D) section 13(c);

and inserting ``Commission'';

(2) in section 4b, as amended by section 210--

(A) by redesignating subdividions (A) through (E) as subdivisions (1) through (5), respectively;

(B) by striking ``(a)'', ``(b)'', and ``(c)'', and inserting ``(A)'', ``(B)'', and ``(C)'', respectively;

(C) by striking ``fulfillment thereof--'' and inserting the following: ``fulfillment thereof, to do any act referred to in subsection (b).

``(b) The following acts are referred to for purposes of subsection (a):'';

(D) by inserting ``(a)'' after ``SEC. 4b.'';

(E) by inserting ``(c)'' before ``Nothing in this section or''; and

(F) by inserting ``(d)'' before ``Nothing in this section shall'';

(3) in section 4c(d)(2)--

(A) in subparagraph (A)(iv) by striking ``(15 U.S.C. 78c(a)(12))'' and inserting ``(15 U.S.C. 78c(a)(12)))''; and

(B) in the matter following subparagraph (C) by striking ``section (2)(a)'' and inserting ``section 2(a)'';

(4) in section 6(c), as so redesignated by section 207(a)(1), by striking ``offending person.'' and inserting ``offending person'';

(5) in section 6a, as amended by section 207(b)(5),

by redesignating subsections (1) and (2) as subsections (a) and (b), respectively;

(6) by striking ``the Secretary of Agriculture or''--

(A) in the first sentence of section 6(b), as so redesignated by section 207(a)(1);

(B) in the first sentence of section 6(c), as so redesignated by section 207(a)(1); and

(C) in section 13(c);

(7) in section 8a--

(A) in paragraph (5) by striking ``and'' at the end; and

(B) in paragraph (7) by striking ``matters as:'' and inserting ``matters as--'';

(8) in section 14(g) by striking ``fifteen months'' and inserting ``15-month'';

(9) in section 17--

(A) in subsection (a) by indenting the left margin of paragraphs (1) and (2) 2 ems; and

(B) in subsection (1)(2)(B)--

(i) by striking ``the Commodity Exchange'' and inserting ``this''; and

(ii) by striking the period at the end and inserting ``; and''';

(10) in section 22(a)--

(A) in paragraph (1)--

(i) by striking ``clauses'' and inserting ``subparagraphs''; and

(ii) in subparagraph (D) by striking ``clause'' and inserting ``subparagraph''; and

(B) in paragraph (2) by striking ``section 17b(10)'' and inserting ``section 17(b)(10)''; and

(11) in section 23(a)(3) by striking ``(3) among'' and inserting ``(3) Among''.

The Committee believes that Section 4 b of the Commodity Exchange Act already prohibits trading ahead of any customer by FCMs, their employees and floor brokers and that violation is a criminal offense under existing law.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date August 2, 1989

(Sub) Committee: Tobacco and Peanuts

Public Hearing

met at 2:45 o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the U.S. Department of Agriculture's transfer of No Net Cost funds collected pursuant to the Budget Deficit Reduction Act.

The following Members were present:

Mr.	Rose	Mr.	Hopkins	Mr.	
Mr.	Hatcher	Mr.		Mr.	
Mr.	Lancaster	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	
				Mr.	
				Mr.	

Staff present:

Joe Muldoon, Majority Assistant Counsel
Carol Ann Dubard, Minority Consultant
Heidi Pender, Subcommittee Counsel
Cristy Scott, Staff Assistant
Grace McGovern, Staff Assistant

Witnesses:

1. Mr. Fred G. Pond, General Manager, Flue-Cured Tobacco Cooperative Stabilization Corporation, Raleigh, North Carolina

2. Mr. Danny McKinney, Executive Secretary and Treasurer Burley Tobacco Growers Cooperative Association, Lexington Kentucky

3. Mr. Lionel Edwards, Tobacco Specialist, North Carolina Farm Bureau, Raleigh, North Carolina

4. Mr. Keith Bjerke, Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

5. Mr. Dallas R. Smith, Director, Tobacco and Peanuts Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

6. Mr. David Nichols, Assistant Comptroller, Commodity Credit Corporation, U.S. Department of Agriculture, Washington,D.C.

7. Mr. Ralph Linden, Office of General Counsel, U.S.Department of Agriculture, Washington, D.C.

Wednesday, August 2, 1989
Subcommittee on Tobacco
and Peanuts
Public Hearing
Review of the Department of
Agriculture's transfer of No Net
Cost funds collected pursuant to
the Budget Deficit Reduction Act

Chairman Rose called the meeting to order for the purpose of reviewing the Department of Agriculture's transfer of No Net Cost funds collected pursuant to the Budget Deficit Reduction Act. Mr. Rose and Mr. Hopkins made opening remarks.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The hearing recessed at 3:00 p.m. and reconvened at 3:20 p.m. for a vote.

The meeting adjourned at 4:10 p.m.

Grace McGovern

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Saturday, August 5, 1989

(Sub) Committee: Cotton, Rice, and Sugar

Public Field Hearing

met at 2:30 p.m. o'clock, in Room 103, El Paso County Judicial Building, Colorado Springs, Colorado

for the purpose of reviewing current and future U.S. sugar policy.

The following Members were present:

Mr. Huckaby	Mr. Stangeland	Mr.
Mr. Tallon	Mr. Lewis	Mr.
Mr. Stallings	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.

Staff present:

Parks Shackelford, Consultant
Michael Mishoe, Minority Consultant

Witnesses:

1. Mr. Roger W. Hill, President, Chief Executive Officer, Holly Sugar Company, Colorado Springs, Colorado

2. Mr. Steven W. Horn, Commissioner of Agriculture, State of Colorado, Denver, Colorado

3. Panel
Mr. Irvin W. Kindsfater, Ellis Capp Equipment Company, Greeley, Colorado

Mr. Steven G. Bower, Amalgamated Sugar Interfactory Representative, The American Federation of Grain Millers, Boise, Idaho

Mr. John L. Franklin, President & CEO, First United Bank of Sidney, Sidney, Montana

4. Panel
Mr. Billy J. Cleavinger, President, American Sugar Beet Growers Association, Wildorado, Texas

Mr. Craig Anderson, Mountain State Beet Growers, Longmont, Colorado

Mr. John A. Maser, President, Nebraska Non-stock Cooperative, Minatare, Nebraska

5. Panel
Mr. Francis Morgan, President, Hamokua Sugar Company, Hawaiian Sugar Planters Association, Paauilo, Hawaii

Acc. by: Mr. John Couch, Chairman of the Board, Hawaiian Sugar Planters Association, Honolulu, Hawaii

Mr. Eiler Ravnholt, Vice President, Hawaiian Sugar Planters Association, Washington, D.C.

Mr. George A. Lamberth, Chairman, Chief Executive Officer, Spreckels Sugar Company, Pleasanton, California

Mr. George M. Stutz, President, California Beet Growers Association, Red Bluff, California

6. Panel
Mr. Harold D. Smedley, Executive Director, Colorado Corn Growers Association, Englewood, Colorado

Mr. John Stencel, President, Rocky Mountain Farmers Union, Denver, Colorado

Saturday, August 5, 1989
Subcommittee on Cotton,
Rice, and Sugar
Field Hearing
Review of current and
future U.S. sugar policy

Statements Submitted for the Record

1. American Farm Bureau Federation, 600 Maryland Avenue, S.W., Washington, D.C. 20024

2. Mr. Don Rolston, Commissioner, Wyoming Department of Agriculture, 2219 Carey Avenue, Cheyenne, Wyoming 82002-0100

3. Mr. J. Frederick Niehaus, Special Assistant to the Governor for Economic Development, State of Colorado, 136 State Capitol, Denver, Colorado 80203-1792

Subcommittee Chairman Jerry Huckaby called the hearing to order and delivered the opening remarks. Mr. Huckaby recognized each of the Members for their opening remarks.

For the remainder of the hearing, witnesses came forward in panels and individually delivered statements. Witnesses were questioned after each panel's statements were concluded.

Mr. Huckaby announced the hearing record would be held open to receive additional written statements which might be submitted.

After concluding remarks by the Members, Mr. Huckaby adjourned the hearing at approximately 5:30 p.m.

Parks Shackelford
Consultant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Monday, August 7, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Field Hearing

met at 9:15 a.m. o'clock, in ~~Room~~ Clarksdale Civic Center, Clarksdale, MS

for the purpose of reviewing rural development needs and issues.

The following Members were present:

Mr. English	Mr.	Mr.
Mr. Espy	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
James E. McDonald, Subcommittee Consultant

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Witnesses:

Welcome Panel:

1. The Honorable Henry W. Espy, Mayor, City of Clarksdale, Mississippi

2. Mr. George F. Walker, President, Coahoma County Industrial Foundation, Clarksdale, Mississippi

3. Mr. David R. Hunt, Attorney, Municipal Energy Agency of Mississippi, Clarksdale, Mississippi

4. Mr. Clifford L. Johnson, Executive Director, Northwest Mississippi Regional Medical Center, Clarksdale, Mississippi

Special Witness:

1. Mrs. Julie H. Mabus, First Lady of Mississippi, Chairperson of Mississippi Literacy Coalition and Chairperson of the Governor's Task Force on Child Care, Jackson, Mississippi

Panel on Public Sector Initiatives:

1. Mr. Wilbur F. Hawkins, Executive Director, Lower Mississippi Delta Development Commission, Memphis, Tennessee

2. Dr. Don C. Hines, Chief of Planning and Economic Development, State of Alabama, Montgomery, Alabama

3. Mr. Marshall G. Bennett, State Treasurer, State of Mississippi, Jackson, Mississippi

4. Mr. Pat L. Thomas, Director, Delta Regional Procurement Center, Greenville, Mississippi

Witness on Higher Education:

1. Dr. William W. Sutton, President, Mississippi Valley State University, Itta Bena, Mississippi

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Monday, August 7, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

Panel on Minority Business:

1. Mr. Larry Farmer, Mississippi Action for Community Education (MACE), Greenville, Mississippi

2. Ms. Peggy B. Henderson, President, The Southern Group, Inc., Tunica, Mississippi

3. Mr. Ben F. Burkett, State Coordinator, Federation of Southern Cooperatives, Jackson, Mississippi

Statements Submitted for the Record:

1. Mr. Ed Blakeslee, Vice President of Marketing, Mississippi Power Company

2. Mr. Charles J. Law, Jr., Executive Director, Southeastern Educational Improvement Laboratory, Research Triangle Park, North Carolina

3. Mr. L.H. Wilson, General Counsel, Mississippi Bankers Association, Jackson, Mississippi

4. Dr. Daniel T. McQuagge, Director, Delta Area Writing Project, Delta State University, Cleveland, Mississippi

5. Clarke Gernon, Chairman, Capital RC&D Council, Inc., Denham Springs, Louisiana

Chairman English of the Conservation, Credit and Rural Development Subcommittee called the field hearing to order at 9:15 a.m. Chairman English's brief opening remarks were followed by additional opening comments by Congressman Espy in which Mr. Espy welcomed the subcommittee to Mississippi.

Monday, August 7, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

Panel on Private Sector Initiatives:

1. Mr. Jerry Maulden, CEO and Chief Executive Officer of Mississippi Power and Light and Arkansas Power and Light, Jackson, Mississippi

2. Mr. George L. Berry, Chairman, Washington County Industrial Foundation, Greenville, Mississippi

3. Mr. Michael F. Milligan, Manager for Economic Development, South Central Bell Telephone, Jackson, Mississippi

4. Mr. Hobson Waits, Executive Vice President, Electric Power Associations of Mississippi, Jackson, Mississippi

5. Mr. James S. Sharkey, Executive Vice President, Greenwood-LeFlore County Chamber of Commerce

Panel on Human Deficiencies:

1. Ms. Annie Brown, Originator, Orgainizer, and Executive Director of Sharkey-Issaquena Community Challenge, Inc., Rolling Fork, Mississippi

2. Ms. Carrie A. Haynes, Administrative Consultant, Sharkey-Issaquena Community Challenge, Inc., Rolling Fork, Mississippi

3. Dr. Paul A. Sundet, Professor, University of Missouri, Columbia, Missouri

4. Mr. Charlie V. Sanders, Residential Home Builder, Sanders Lumber and Construction Company, Inc., Senatobia, Mississippi

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Monday, August 7, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

After a welcome by the Mayor of Clarksdale, the subcommittee heard testimony from the First Lady of Mississippi, Mrs. Julie Mabus. Mrs. Mabus' testimony was followed by testimony of the other witnesses listed on pages 2-4. Each witness was questioned following their respective presentations.

The field hearing was adjourned by Congressman English at 1:20 p.m.

James E. McDonald
Subcommittee Consultant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date August 8, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Field Hearing

met at 9:00 a.m. o'clock, in Room Holiday Inn, U.S. 24 East, Logansport, Indiana

for the purpose of reviewing 1985 Food Security Act's Commodity Programs in Preparation of the 1990 Farm Bill.

The following Members were present:

Mr. Glickman	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Ms. Long	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Greg Frazier, Subcommittee Staff Director
Anne Keys, Staff Assistant

Witnesses:

1. Panel

Mr. David L. Miers, Deputy Commissioner of Agriculture, State of Indiana, Indianapolis, Indiana

Mr. Robert L. Thompson, Dean of Agriculture, Purdue University, West Lafayette, Indiana

The Honorable Claire M. Leuck, Chairperson, House Agriculture Committee, Indiana General Assembly, Fowler, Indiana

The Honorable Katie L. Wolf, Senator, Indiana State Senate, Monticello, Indiana

2. Panel

Mr. Michael A. Hacker, Field Production Manager, Weaver Popcorn Company, Inc., Van Buren, Indiana

Mr. David D. Kuk, Eastern Region Manager, Indiana Farm Bureau Cooperative Assn., Inc., Indianapolis, Indiana

Mr. Roy M. Johnson, Product Manager, Edward J. Funk and Sons, Inc., Kentland, Indiana

Mr. Joseph F. Johnson, General Manager, Erny's Fertilizer Service, Inc., Walton, Indiana

Mr. Ben O. Yantis, President, Yantis Implement and Yantis Farms, Inc., Logansport, Indiana

3. Panel

Mr. Larry V. Boys, Indiana Farm Bureau, Peru, Indiana

Mr. Charles R. Fear, Indiana Farmers Union, Kewanna, Indiana

Mr. Larry F. Erb, Indiana Vice President, National Farmers' Organization, Remington, Indiana

Mr. Albert Dwight Plank, Indiana State Grange, Galveston, Indiana

Tuesday, August 8, 1989
Subcommittee on Wheat
Soybeans and Feed Grains
Public Field Hearing
Review of 1985 Farm Bill's
Commodity Programs in
Preparation for 1990 Farm
Bill

Witnesses Continued

4. Panel

Mr. Dean Eppley, Indiana Corn Growers Association, Wabash, Indiana

Mr. Norbert D. Pilotte, President, Indiana Soybean Association, Brookston, Indiana

Mr. Dale S. Smith, Seed Corn Growers Assn., Rochester, Indiana

Mr. Bryan D. Kirkpatrick, Producer, Greentown, Indiana

Chairman Glickman called the hearing to order for the purpose of reveiwing the 1985 Food Security's Act's commodity programs in preparation for the 1990 farm bill. Chairman Glickman, Mr. Jontz and Ms. Long made opening statements and then witnesses listed on pages 2 and 3 were recognized to testify.

At the conclusion of each panel, Members directed questions to the witnesses.

At 12:00 noon the meeting was adjourned subject to the call of the chair.

Greg Frazier

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date August 8, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Field Hearing

met at 2:00 p.m. o'clock, in Room 4-H Center, 115 South Line Street, Columbia City, Indiana

for the purpose of reviewing the 1985 Food Security Act's Commodity Programs in preparation of the 1990 Farm Bill.

The following Members were present:

Mr. Glickman	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Ms. Long	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Greg Frazier, Subcommittee Staff Director
Anne Keys, Staff Assistant

Witnesses:

1. Panel

   Mr. Gregory A. Scher, Agricultural Advisory Committee, Huntington, Indiana

   Mr. John Caravetta, Extension Agent, Purdue Cooperative Extension Service, Ft. Wayne, Indiana

   Ms. Jacqueline S. Haffner, Citizen's Action Coalition, Portland, Indiana

2. Panel

   Mr. Louis E. Lash, President, Noble County Farm Bureau, Indiana Farm Bureau Cooperative Association, Avilla, Indiana

   Mr. Walter A. Trier, President, Second District, National Farmers Organization, Columbia City, Indiana

   Mr. William D. Basting, State Director, National Farmers Union, Woodburn, Indiana

   Mr. Joe A. Hibschman, State Grange, Syracuse, Indiana

3. Panel

   Mr. John D. Nidlinger, President, Nidlinger, Farms Inc., representing Indiana Corn Growers, Decatur, Indiana

   Mr. Roger W. Hadley II, Indiana Soybean Growers Association, Woodburn, Indiana

   Mr. Robert D. Lozier, Corporate Director, Associated Milk Producers, Inc., Warsaw, Indiana

   Mr. Mel A. Egolf, Delegate, Milk Marketing, Inc., Churubusco, Indiana

4. Panel

   Mr. C. Lockwood Marine, Senior Vice President, Central Soya Co. Inc., Fort Wayne, Indiana

   Mr. Vernon Shupe, Farmers Elevator Company and Member of the Board of Indiana Feed Grain Dealers Association, South Whitley, Indiana

   Mr. Ken Kipfer, Riverside Warehouses, Inc., Bluffton, Indiana

Tuesday, August 8, 1989
Subcommittee on Wheat,
Soybeans and Feed Grains
Public Field Hearing
Review of 1985 Farm Bill's
Commodity Programs in
Preparation for 1990 Farm
Bill

Chairman Glickman called the hearing to order at 2:00 p.m. for the purpose of reviewing the 1985 Food Security Act's commodity programs in preparation for the 1990 farm bill. Chairman Glickman, Mr. Jontz and Ms. Long made opening statements and then witnesses listed on page 2 were recognized to testify.

At the conclusion of each panel, Members directed questions to the witnesses.

At 4:00 p.m. the meeting was adjourned subject to the call of the chair.

Greg Frazier

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, August 9, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Field Hearing

met at 9:00 a.m. o'clock, in ~~Room~~ Texas Tech Health Science Center Auditorium, Amarillo, Texas
for the purpose of reviewing rural development needs and issues.

The following Members were present:

Mr. English	Mr. Combest	Mr.
Mr. Sarpalius	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

James E. McDonald, Subcommittee Consultant
Joe Muldoon, Majority Assistant Counsel

Witnesses:

Welcoming Remarks:

1. Mr. Steve Ahlenius, Amarillo Chamber of Commerce, Amarillo, Texas

Special Witness:

1. The Honorable Teel Bivins, State Senator, Amarillo, Texas

Panel on the Economy:

1. Dr. Dennis U. Fisher, Extension Economist -Development and Policy, Texas Agricultural Extension Service, Texas A&M University System, College Station, Texas

2. Dr. Ronald D. Knutson, Professor and Extension Economist, Texas Agricultural Extension Service, Texas A&M University, College Station, Texas

3. Dr. Donald A. Michie, Director, Institute for Manufacturing and Materials Management, University of Texas at El Paso, El Paso, Texas

4. Dr. Peter M. Wichert, Assistant Director of Business Services, New Mexico State University, Las Cruces, New Mexico

Panel on Banking:

1. Mr. William T. Battin, President, Plains National Bank, Lubbock, Texas

2. Mr. John T. Cluck, President, First National Bank, Perryton, Texas

Panel on Utilities:

1. Mr. Gary Gibson, Vice President for Marketing and Economic Development, Southwestern Public Service Company, Amarillo, Texas

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Wednesday, August 9, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

2. Mr. Jim Morriss, Executive Vice President, The Association of Texas Electric Cooperatives, Austin, Texas

3. Mr. Phillip Q. Klutts, President, Oklahoma Rural Water Association, Oklahoma City, Oklahoma

4. Mr. Bob N. Jackson, Manager for Economic Development, Public Service Company of Oklahoma, Tulsa, Oklahoma

5. Mr. Tom Duck, Executive Director, Texas Rural Water Association, Austin, Texas

Panel on Medical Care:

1. Mr. James R. Wurts, Administrator, Moore County Hospital District, Dumas, Texas

2. Ms. Mary Joleen Walsh, Professor and Director of Nursing, West Texas State University, Canyon, Texas

3. Mr. Fletcher S. Walters, Jr., Assistant to the President, Amarillo Hospital District and Consultant to the Associate Dean, Texas Tech University Health Sciences Center, Amarillo, Branch, Northwest Texas Hospital, Amarillo, Texas

4. Mr. Michael A. Denis, Senior Vice President, Lubbock Methodist Hospital System, Lubbock, Texas

5. Joe L. Lowry, M.D., Pampa, Texas

Panel on Rural Mental Health:

1. Dr. Glen K. Wallace, Psychologist, Oklahoma Department of Mental Health, Oklahoma City, Oklahoma

2. Ms. Pat R. Bowen, Director, Panhandle Treatment Center, Guymon, Oklahoma

3. Ms. Lou Northcutt, R.N., Marshall Memorial Hospital and Texas Woman's University Department of Nursing, Kingston, Oklahoma

4. Mr. Donald L. Hall, Public Information Representative, Oklahoma Department of Mental Health and Substance Abuse, Oklahoma City, Oklahoma

5. Ms. Mona L. Brock, Counselor/Consultant for the AG-Link Hotline, Oklahoma Conference of Churches/Farmers, Oklahoma City, Oklahoma

Panel on Rural Education:

1. Dr. Preston C. Kronkosky, Executive Director, Southwest Educational Development Laboratory, Austin, Texas

2. Mr. Don L. Blankenship, Superintendent of Schools, Seagraves Independent School District, Seagraves, Texas

3. Mr. Dean Rea, Chairman of the Legislative Committee, Texas Grain and Feed Association, Canyon, Texas

Panel on General Rural Needs (Section One):

1. Mr. Carl L. King, President, Texas Corn Growers, Dimmitt, Texas

2. Mr. Louis G. Hinders, President, Western Division of Associated Milk Producers, Canyon, Texas

3. Mr. Albert E. Cranford, Representing Research, Conservation and Development of Western Oklahoma, Sentinel, Oklahoma

4. Mr. Paul Hunter, Secretary, National Association of RC&D Councils, Parsons, Kansas

5. Mr. Delbert L. Devin, Chairman, PRIDE (Promoting Regional Industry, Development and Enhancement, P.O. Box 552, Tulia, Texas 79088

Panel on General Rural Needs (Section Two):

1. Mr. David E. Soileau, Federal Liaison Coordinator, Texas State Department of Highways and Public Transportation, Austin, Texas

2. Mr. Don Kimbrell, Texas State President, American Agricultural Movement, Happy, Texas

3. Mr. Gary King, Director of Finance, Texas Department of Commerce, Austin, Texas

Statements Submitted for the Record:

1. Mr. Lyle M. Robinson, General Manager, Swisher Electric Cooperative, Inc., Tulia, Texas

2. Earl H. Gilmore, Professor Emeritis, West Texas State University, Canyon, Texas

3. Professor Forrest S. Stoddard, Alternative Energy Institute, West Texas State University, Canyon, Texas

4. Larry Watkins, General Manager, Oklahoma Association of Electric Cooperatives, Oklahoma City, Oklahoma

Chairman English called the field hearing to order at 9:00 a.m. Mr. English's opening remarks were followed by brief statements from Congressman Sarpalius and Congressman Combest.

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Wednesday, August 9, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

After welcoming remarks by Mr. Steve Ahlenius of the Amarillo Chamber of Commerce and Texas State Senator Teel Bivins, the subcommittee heard testimony from the witnesses on the first three panels addressing economic, banking and rural utility issues before recessing for lunch at 12:02 p.m.

The afternoon session convened at 1:30 p.m. with Chairman English and Congressman Sarpalius present to hear the remaining witnesses. The afternoon witnesses addressed rural needs in the medical. mental health, education areas as well as general needs of rural areas. After closing comments by Chairman English and Congressman Sarpalius, the hearing was adjourned at 4:09 p.m.

James E. McDonald
Subcommittee Consultant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Friday, August 11, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Field Hearing

met at 9:45 a.m. o'clock, in ~~Room~~ Marshalltown Community College, Marshalltown, Iowa
for the purpose of reviewing rural development needs and issues.

The following Members were present:

Mr. English	Mr.	Mr.
Mr. Nagle	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

James E. McDonald, Subcommittee Consultant
Joe Muldoon, Majority Assistant Counsel

Witnesses:

Welcoming Panel:

1. Mr. Doug Hofbauer, President, Marshalltown Chamber of Commerce, Marshalltown, Iowa

2. Dr. John Prihoda, President, Iowa Valley Community College District, Marshalltown, Iowa

Special Witness:

1. The Honorable Terry E. Branstad, Governor of the State of Iowa, State Capitol, Des Moines, Iowa

Panel on Rural Infrastructure:

1. Ms. Ruth C. Wagner, Manager, Poweshiek Water Association, Brooklyn, Iowa

2. Mr. Ray L. Osthus, President, Iowa Association of Realtors, Marshalltown, Iowa

3. Mr. James E. Pribyl, Director of Government Relations, U.S. West Communications, Des Moines, Iowa

4. Mr. William R. Blakley, Manager of the Dumont Telephone Company and representing the Iowa Telephone Association, Dumont, Iowa

5. Mr. David M. Smith, Chief Executive Officer, Mitchell County Memorial Hospital, Osage, Iowa

6. Ms. Marcia Heggen, Director, AGRICARE, Marshalltown Medical and Surgical Center, Marshalltown, Iowa

Panel on Local Development:

1. Mr. Einer M. Lunde, Mayor of Northwood, Iowa

2. Mr. Stan E. Brown, Mayor of Marshalltown, Iowa

3. Mr. Kent R. Holst, General Manager, Traer Municipal Utilities, Traer, Iowa

4. Mr. Robert O. Burrows, Mayor of Belle Plaine, Iowa

5. Miss Amanda Kae Harland, Marshall County 4-H, Marshalltown, Iowa

6. Mr. Scott E. Kilborn, Marshall County 4-H, Marshalltown, Iowa

Panel on Rural Development Delivery Systems:

1. The Honorable Jane Svoboda, Iowa State Representative, Clutier, Iowa

2. Mr. Jack C. Bailey, Executive Director, Iowa Rural Electric Cooperative Association, West Des Moines, Iowa

3. Mr. Peter W. Deitrich, Vice President for Corporate Development, IE Industries, Cedar Rapids, Iowa

4. Dr. Brady J. Deaton, Professor and Chairman, Department of Agricultural Economics, University of Missouri, Columbia, Missouri

5. Mr. Bob Hartford, Deputy Commissioner, Governor's Office, State of South Dakota, Pierre, South Dakota

Panel on Rural Business Assistance:

1. Mr. Tom R. Smith, Iowa Bankers Association, Des Moines, Iowa

2. Mr. James A. Mullins, Director, Omaha Farm Credit, Cornith, Iowa

3. Mr. Arnold C. Shultz, President, Grundy National Bank, Grundy Center, Iowa

4. Mr. O.J. Thompson, Chairman, Citizens National Bank, Charles City, Iowa

5. Mr. Lowell E. Norland, Director of Community Services, University of Northern Iowa, Cedar Fall, Iowa

6. Mr. Steven J. Ovel, Executive Director, Economic Development Center, Cedar Rapids, Iowa

7. Mr. Roger D. McMahon, Director, Iowa Leadership Development Institute, Des Moines, Iowa

Testimony Submitted for the Record:

1. Mr. Lynn K. Vorbrich, Executive Vice President, Iowa Power, Des Moines, Iowa

2. Kary B. Paulson, Northwood State Bank, Northwood, Iowa

3. The Honorable Deo A. Koenigs, Iowa State Representative, McIntire, Iowa

4. Ms. MarJean Sutter, Chair, Prairiefire Rural Action, Des Moines, Iowa

5. Mr. Dennis Murray, National Association for Rural Mental Health, Rockville, Maryland

6. Mr. Marshall McDowell, McDowell Gem Studio, State Center, Iowa

7. Mr. Philip R. Yount, President, The Grinnell Mutual Group, Grinnell, Iowa

8. The Board of Directors of the Iowa City Area Development Group, Iowa City, Iowa

9. Mr. Glenn Ivarsen, Manager of Economic Development, Midwest Energy Company, Sioux City, Iowa

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Development Subcommittee
Public Field Hearing
Rural Development Issues

10. Mr. Donald G. Chaplain, Executive Director, Charles City Area Development Corporation, Charles City, Iowa

11. Mr. John K. Redeen, President, Buena Vista Industrial Group, Storm Lake, Iowa

12. Mr. Bill Gipson, Economic Development Manager, The Empire District Electric Company, Joplin, Missouri

Chairman English called the hearing to order at 9:45 a.m. and made a brief opening statement which was followed by remarks by Congressman Nagle. The subcommittee was welcomed by the President of the Iowa Valley Community College District and the President of the Marshalltown Chamber of Commerce. After these brief welcome statements, the subcommittee heard testimony from the Honorable Terry Branstad, Governor of the State of Iowa.

Following Governor Branstad's testimony, the subcommittee heard from the Panels on Rural Infrastructure and Local Development. Each witness responded to questions from Chairman English and Congressman Nagle before recessing for lunch at 12:20 p.m.

The subcommittee met for the afternoon session at 1:10 p.m. and heard from the remaining panels before adjourning at 3:23 p.m.

James E. McDonald
James E. McDonald
Subcommittee Consultant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, August 22, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Field Hearing

met at 9:20 a.m. o'clock, in ~~Room~~ Civic Center Auditorium, Blackfoot, Idaho
for the purpose of reviewing rural development needs and issues.

The following Members were present:

Mr. English	Mr.	Mr.
Mr. Stallings	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

James E. McDonald, Subcommittee Consultant
Joe Muldoon, Majority Assistant Counsel

Witnesses:

Panel of Elected and State Officials:

1. Dr. Richard Rush, Director, Idaho Department of Agriculture, Boise, Idaho
2. Mr. Jim Hawkins, Director, Idaho Department of Commerce, Boise, Idaho
3. State Senator Jim Christiansen, Aberdeen, Idaho
4. State Representative John O. Sessions, Driggs, Idaho
5. Mr. Francis Jensen, Bingham County Idaho County Commissioner, Blackfoot, Idaho
6. Mr. Bill Whitton, Mayor of Rupert, Idaho, Rupert, Idaho

Panel of University/Extension Specialists and Educational Development:

1. Dr. Neil Meyer, Extension Specialist, University of Idaho, Moscow, Idaho
2. Dr. Ron Millick, Director of Development, Idaho State University, Pocatello, Idaho
3. Dr. Robert R. Rath, Executive Director, Northwest Regional Educational Laboratory, Portland, Oregon
4. Dr. Donna Bellorado, Far West Laboratory for Education Research and Development, San Francisco, California
5. Ron R. Hall, State Director, Idaho Small Business Development Center, Boise State University, Boise, Idaho

Tuesday, August 22, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

Panel of State Associations:

1. Edie Tracy, Chairman, Idaho Private Industry Council, Soda Springs, Idaho

2. Clayton Schmitt, Idaho Rural Water Association, Soda Springs, Idaho

3. Ralph Wheeler, Power County Commissioner, Idaho Association of Counties, American Falls, Idaho

Panel of Regional Development Organizations:

1. Joe Herring, Executive Director, Region IV Development Association, Inc., Twin Falls, Idaho

2. Jeff Summers, Executive Director, East-Central Idaho Planning and Development Association, Inc., Rexburg, Idaho

3. Ron Law, Bear Lake County Commissioner and Chairman of the Southeast Idaho Council of Governments

4. Phil Choate, ORE-IDA Planning and Development, Weiser, Idaho

Panel of Lending Institutions:

1. Blair Hawkes, President, Ireland Bank, Malad, Idaho

2. A.E. VanWinkle, Farm Credit Bank for Cooperatives, Spokane, Washington

3. Al Haslebacher, President, Spokane District Farm Credit Council. Spokane, Washington

Tuesday, August 22, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

Panel of Cooperatives and Agriculture Organizations:

1. Gary Fuhriman, Idaho Farm Bureau, Pocatello, Idaho
2. Steve Goodwin, National Farmers Organization, Blackfoot, Idaho
3. Pam Baldwin, President, Idaho Rural Council, Meridian, Idaho
4. Bud Tracy, Raft River Rural Electrical Cooperative, Malta, Idaho
5. Boyd Munns, Utah-Idaho Farmers Union, Garland, Utah
6. George Mangan, Fall River Rural Electric Cooperative, Ashton, Idaho
7. Leonard May, Rockland Rural Telephone Company, Rockland, Idaho

Panel on Community Development and Private Industry:

1. Bonnie McClellan, Ethanol Marketing, Inc., Paul, Idaho
2. Richard Westerberg, Idaho Division, Utah Power and Light, Salt Lake City, Utah
3. Terry Albers, Community Development, Black Hills Cooperative, Sturgis, South Dakota
4. Bill Specht, President, Buhl Economic Council, Buhl, Idaho

Testimony Submitted for the Record:

1. The Honorable Bob Miller, Governor, State of Nevada, Carson City, Nevada

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Development Subcommittee
Public Field Hearing
Rural Development Issues

2. William S. Stanger, Chairman, High Country RC&D Area, Inc., Rexburg, Idaho

3. Glen Allen, Chairman, Craters of the Moon Development Corporation, Rupert, Idaho

4. Don W. Johnson, Master, Idaho State Grange, Meridian, Idaho

Chairman English called the hearing to order at 9:20 a.m. and made a brief opening statement which was followed by a statement by Congressman Stallings. Congressman Stallings also read into the hearing record a letter from the Governor of Nevada, The Honorable Bob Miller.

The subcommittee heard from witnesses on panels one through four representing elected officials, university and education specialists, state associations and regional development organizations before recessing for lunch at 12:50 p.m. The subcommittee reconvened after lunch at 1:58 p.m. to hear from the remaining witnesses addressing rural credit, cooperative and agriculture organizations, community development and private industry before adjourning at 4:39 p.m.

James E. McDonald
Subcommittee Consultant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date August 28, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Field Hearing

met at 8:30 a.m. o'clock, in Room Colorado State Fairgrounds, 4H Building, 1001 Beulah Avenue, Pueblo, Colorado

for the purpose of reviewing issues relating to the Formulation of the 1990 farm bill

The following Members were present:

Mr. Glickman
Mr. Campbell
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Marlenee
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Brown of Colorado
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Greg Frazier, Subcommittee Staff Director
Anne Keys, Staff Assistant
Joe Muldoon, Associate Counsel
Cliff Humphrey, Minority Consultant

Witnesses:

1. Mr. Steve W. Horn, Commissioner of Agriculture, Denver, Colorado

2. Ms. Mary Lou Chapman, Member, National Agricultural Research and Extension Users Advisory Board, Arvada, Colorado

3. Panel:

   Mr. James K. Pelton, President, Colorado Association of Wheat Growers, Cheyenne Wells, Colorado

   Mr. J. Malcolm Hefley, President, Colorado Corn Growers Association, Two Buttes, Colorado

4. Panel:

   Mr. Corwin A. Brown, President, Colorado Cattlemen's Association, Springfield, Colorado

   Mr. Jay Hickert, President, Colorado Cattle Feeders Association, Akron, Colorado

5. Panel:

   Mr. John Stencel, III, President, Rocky Mountain Farmers' Union, Denver, Colorado

   Ms. Marsha A. Jones, National Wheat Commodity Chairperson, Women Involved in Farm Economics, Grover, Colorado

   Mr. Dean R. Kittel, Executive Vice President, Colorado Farm Bureau, Denver, Colorado

   Ms. Jeanne B. Davies, Master, Colorado State Grange, Denver, Colorado

   Mr. Corky Jones, American Agriculture Movement, Brownville, Nebraska

Statements Subcommited for the Record:

1. Mr. Freddie Hillman, American Agriculture Movement, 411 South Hickory, Yuma, Colorado 80759

2. Mr. Sam Barker, Trinidad, Colorado 81082

Monday, August 28, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Field Hearing
Review Issues Relating to the
Formulation of the 1990
Farm Bill

Chairman Glickman called the meeting to order for the purpose of reviewing issues relating to the formulation of the 1990 farm bill. Opening statements were made and the witnesses testified in the order which they appear on page 2 of these minutes. Following their presentations, the witnesses responded to questions by the Members.

The hearing was adjourned at 12:00 noon, to reconvene subject to the call of the chair.

Greg Frazier

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date August 29, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Field Hearing

met at 8:00 a.m. o'clock, in Room Red Lion Inn, 304 S.E. Nye Avenue, Pendleton Oregon
for the purpose of reviewing Issues Relating to the Formulation of the 1990 farm bill

The following Members were present:

Mr. Glickman	Mr. Marlenee	Mr.
Mr. Jontz	Mr. Smith	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Greg Frazier, Subcommittee Staff Director

Witnesses:

1. Panel:

Mr. Clinton B. Reeder, President, Oregon Wheat Growers League, Pendleton, Oregon
Acc. by: Mr. James O. Harris, Oregon Wheat Growers League, Oregon Weed Board, Pendleton, Oregon
Mr. Lawrence A. Coppock, Chairman, Research Committee, Oregon Wheat Growers League, Adams, Oregon

Mr. Earl Pryor, Former Chairman, Oregon Wheat Commission, Condon, Oregon

2. Panel:

Mr. William Schwerin, President, Washington Association of Wheat Growers, Walla Walla, Washington

Mr. Robert Nat Webb, National Legislation Chairman, Washington Association of Wheat Growers, Walla Walla, Washington

Mr. Jonathan F. Schlueter, Executive Vice President, Pacific Northwest Grain and Feed Association, Portland, Oregon

Mr. Donald J. Cook, General Manager, Pendleton Grain Growers, Inc., Pendleton, Oregon

Mr. Tom M. Trevino, Executive Director, Idaho Grain Producers Association, Boise, Idaho

3. Panel:

Mr. Fritz S. Hill, Member, Oregon Grains Committee, Pendleton, Oregon

Mr. Lawrence F. Lear, Chairman, Cereal and Feed Grains Committee, Oregon Farm Bureau Federation, Salem, Oregon

Mr. Terry L. Witt, Executive Director, Oregonians for Food and Shelter, Salem, Oregon

Mr. Richard O. Eymann, President, Pacific Northwest Farmers' Union, Springfield, Oregon

Ms. Merlina D. Tate, Second Vice President, Women Involved in Farm Economics of Washington, Almira, Washington

Tuesday, August 29, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Field Hearing
Review Issues Relating to the
Formulation of the 1990
Farm Bill

Statements Submitted for the Record:

1. C.K. and Lucille Peck, Peck and Son, Clarks Canyon Road, Lexington, Oregon 97839

2. Mr. Don Wysocki, Extension Soil Scientist, Agricultural Research Center, Box 370, Pendleton, Oregon 97801

3. Ms. Carolyn Seachris, Route 1, Box 231, Touchet, Washington 99360

4. Joe Reitman, Producer, P.O. Box 304, Ione, Oregon 97843

Chairman Glickman called the meeting to order for the purpose of reviewing issues relating to the formulation of the 1990 farm bill. Opening statements were made and the witnesses testified in the order in which they appear on page 2 of these minutes. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

The hearing was adjourned at 11:30 a.m., to reconvene subject to the call of the chair.

Greg Frazier

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date August 30, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Field Hearing

met at 8:00 a.m. o'clock, in Room Lewis and Clark Room, Student Union Building, Eastern Montana College, 1500 North 30th Street, Billings, Montana
for the purpose of reviewing Issues Relating to the Formulation of 1990 farm bill

The following Members were present:

Mr. Glickman	Mr. Marlenee	Mr.
Mr.	Mr. Smith	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Greg Frazier, Subcommittee Staff Director
Anne Keys, Staff Assistant
Joe Muldoon, Associate Counsel
Cliff Humphrey, Minority Consultant

Witnesses:

1. Panel:

Mr. Everett M. Snortland, Director, Montana Department of Agriculture, Helena, Montana

Mr. Larry D. Anderson, Producer, P.O. Box 366, Chester, Montana

Mr. Jeremy J. Danbrook, President, Montana Association of Future Farmers of America, Conrad, Montana

Mr. Kirk M. Fritz, First Vice President, Montana Future Farmers of America, Kalispell, Montana

2. Panel:

Mr. Edwin J. Kuntz, President, Mountain States Beet Growers Association, Custer, Montana

Mr. Don J. Steinbeisser, President, Montana-Dakota Beet Growers Association, Sidney, Montana

Mr. Calvin K. Jones, Vice President, Agricultural Operations, Holly Sugar Corporation, Colorado Springs, Colorado

Mr. Donald W. Bernhardt, Agriculture Manager, Western Sugar Company, Billings, Montana

Mr. Joe Dwyer, President, Inter-State Council of Teamster Sugar Workers, Billings, Montana

3. Panel:

Ms. Pamela J. Langley, Executive Director, Montana Agricultural Business Association, Helena, Montana

Mr. Dan Farmer, Billings Chamber of Commerce, Billings, Montana

4. Panel:

Mr. David L. McClure, State President, Montana Farm Bureau Lewistown, Montana

Mr. Kenneth J. Siroky, Member, Montana Farmers Union, Roy, Montana

Ms. Joann Forsness, President, Women Involved in Farm Economics, Wolf Point, Montana

Ms. Helen M. Waller, Northern Plains Resource Council and National Family Farm Coalition, Circle, Montana

Wednesday, August 30, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Field Hearing
Review of Issues Relating to the
Formulation of the 1990 Farm Bill

Witnesses Continued

5. Panel:

Mr. Larry Johnson, President, Montana Grain Growers Association, Kremlin, Montana

Mr. Jerry V. Thuesen, Director, Montana Durum Growers Association, Reserve, Montana

Mr. Charles W. Crowell, President, Northern Plains Safflower Growers Association, Sidney, Montana

6. Panel:

Mr. Jimme Wilson, Former President, Montana Stockgrowers Association, Trout Creek, Montana

Mr. Donald L. Herzog, President, Montana Pork Producers, Rapelje, Montana

Mr. Robert N. Gilbert, Secretary-Treasurer, Montana Wool Growers Association, Helena, Montana

Mr. Robert L. Buhmann, President, Montana State Beekeepers Association, Zurich, Montana

Mr. Ron Barnett, Vice President, Montana State Beekeepers Association, Belgrade, Montana

Chairman Glickman called the meeting to order at 8:00 a.m. for the purpose of reviewing issues relating to the formulation of the 1990 farm bill. Opening statements were made and the witnesses testified in the order which they appear on pages 2 and 3 of these minutes. Following their presentations the witnesses were questioned by the Members of the Subcommittee.

The hearing was adjourned at 11:30 a.m., to reconvene subject to the call of the chair.

Greg Frazier

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Friday, September 8, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Field Hearing

met at 9:30 a.m. o'clock, in Room 506, Legislative Office Building, 18 Mitchell St., Atlanta, Georgia

for the purpose of reviewing the operation of the Food Stamp Program

The following Members were present:

Mr. Hatcher	Mr. Emerson	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Julia Paradis, Subcommittee Staff Director
Dean Mitchell, Staff Assistant
Lynn Gallagher, Minority Consultant
Xavier Equihua, Staff Assistant

Witnesses:

1. Ms. Brenda Lovett, food stamp recipient, Atlanta, Georgia

2. Mr. G. Scott Dunn, Acting Administrator, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia

3. Dr. James G. Ledbetter, Commissioner, Georgia Department of Human Resources, Atlanta, Georgia

4. Ms. June Merritt, Director, Early County Department of Family and Children Services, Blakely, Georgia

5. Panel

   Ms. Nancy R. Lindbloom, Attorney, Georgia Legal Services Program, Athens, Georgia

   Ms. Cora Johnson, food stamp recipient, Soperton, Georgia

   Ms. Anita L. Beaty, Director, Task Force for the Homeless, Atlanta, Georgia

Statements Submitted for the Record

1. The Honorable John Lewis, Member of Congress from Georgia

2. Ms. Mattie M. Smith, Director, Reachingout Social Action, Inc., 1402 Sargent Avenue, S.E., Atlanta, Georgia

3. Ms. Diane Wilson, Executive Director, Georgia Citizen's Coalition on Hunger, 818 Washington Street, Room E-02, Atlanta, Georgia

Friday, September 8, 1989
Subcommittee on Domestic Marketing,
Consumer Relations, & Nutrition
Field Hearing
Reviewing the operation of the
Food Stamp Program

Subcommittee Chairman Charles Hatcher called the hearing to order and delivered the opening remarks. Mr. Hatcher recognized Mr. Emerson for his opening remarks.

The witnesses came forward individually and in a panel and delivered statements. Witnesses were questioned after their statements were concluded.

After concluding remarks, Mr. Hatcher adjourned the hearing at approximately 11:45 a.m., subject to the call of the Chair.

Julia Paradis
Subcommittee Staff Director

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Monday, September 11, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Field Hearing

met at 9:00 a.m. o'clock, in ~~Room~~ LeRoy, New York High School Auditorium

for the purpose of reviewing rural development needs and issues.

The following Members were present:

	Also Present	
Mr. English	Mrs. Slaughter (NY)	Mr.
Mr. Nagle	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

James E. McDonald, Subcommittee Consultant

Witnesses:

1. Mr. Joseph Gerace, Director, New York Office of Rural Affairs, Second Floor, State Capitol Building, Albany, New York 12224

2. Mr. David A. Pilliod, Director, Office for Local Government, New York State Department of State, 162 Washington Avenue, Albany, New York 12231

3. Ms. Jacqueline M. Moody, Special Assistant to the Commissioner, New York State Department of Environmental Conservation, 50 Wolf Road, Albany, New York 12235

4. Mr. Bert S. Morse, President, New York State Grange, 100 Grange Place, Cortland, New York 13045

5. Mr. John W. Lincoln, Vice President, New York Farm Bureau, Route 5 & 20, R.D. #3, Holcomb, New York 14469

6. Mr. James L. Vincent, Chairman, Farm Credit Association of Western New York, P.O. Box 100, Byron, New York 14422

7. Mr. Stuart J. Mitchell, Executive Director, Rural Opportunities, Inc., Suite 305, 339 East Avenue, Rochester, New York 14604

8. Dr. David L. Brown, Associate Director, Community and Rural Development Institute, 292 Roberts Hall, Cornell University, Ithaca, New York 14850

9. Dr. Kenneth L. Robinson, Professer Emeritus of Agricultural Economics, 409 Warren Hall, Cornell University, Ithaca, New York 14853

10. Ms. Gloria J. Stonecipher, General Manager of the Daily News representing Genessee 2000, 2 Apollo Drive, Batavia, New York 14020

11. Mr. Neil T. Burns, Executive Director, Genessee County Industrial Development Agency, One Industrial Plaza, Batavia, New York 14021

12. Dr. Edna V. Baehre, Dean, Genessee Community College, College Road, Batavia, New York 14020

13. Miss Salena L. Sandford, High School Student, LeRoy High School, 46 Wolcott Street, LeRoy, New York 14482

14. Mr. Daniel L. Hopkins, Mayor of the Village of Oakfield, 37 Main Street, Oakfield, New York 14125

15. Mr. Dennis J. Whittman, Director of Community Services and Victim Assistant, Genesee County New York, County Building #1, Batavia, New York 14020

16. Mr. Jeffrey R. Smith, Village Administrator, Village of LeRoy, 3 West Main Street, LeRoy, New York 14482

17. Mr. Dane M. Long, Senior Associate, Finger Lakes Health Systems, 145 College Avenue, Rochester, New York 14607

18. Mr. Anthony DiMarco, Director, Office of the Aging, Ontario County, 3871 County Road #46, Canandaigua, New York 14624

19. Mr. Albert W. Hawk, Vice President, New York State School Boards Association, 119 Washington Avenue, Albany, New York 12210

20. Mr. Michael A. Robinson, Principal of Rush Campus, BOCES #1 Monroe, 6401 East River Road, Rochester, New York 14586

21. Mr. Richard A. Moyle, General Manager, Steuben Rural Electric Cooperative, 9 Wilson Avenue, Bath, New York 14810

Written Testimony Submitted for the Record:

1. Mr. Thomas R. Frey, County Executive, Monroe County New York, Rochester, New York

2. Mr. Andrew F. Caverly, Government Relations Director, Rochester Telephone, 180 South Clinton Avenue, Rochester, New York 14646

Monday, September 11, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

3. Mr. James A. Carrigg, Chairman of the Board and CEO, New York State Electric & Gas Company, 4500 Vestal Parkway East, Binghamton, New York 13903

4. Mr. Sigrid Amberg, President, Ontario County Farm Bureau, 480 North Main Street, Canandaigua, New York 14424

5. Mr. Gordon Conklin, Editor, American Agriculturist Magazine, Ithaca, New York

6. Mr. James P. Barney, Dairy Farmer, R.D. #1, Box 160, Sherman, New York 14781

7. Ms. Joan Fuller, United Way, 55 St. Paul Street, Rochester, New York

8. Mr. Floyd Anderson, Town Supervisor, Town of York, New York

9. John B. Sheffer II, State Senator, 60th District, Century Mall, 3131 Sheridan Drive, Amherst, New York

Chairman English called the field hearing to order at 9:15 a.m. After a brief opening statement by the Chairman, Congresswoman Slaughter welcomed the subcommittee to LeRoy and recognized several high school classes that were in attendance.

The subcommittee received testimony from a panel of New York State officials and witnesses representing farm, farm credit, rural and economic development groups and a local high school student before recessing for lunch at 12:50 p.m.

The hearing reconvened after lunch at 2:15 p.m. and heard witnesses representing local government, health, aging, education and utilities before adjourning at 4:10 p.m.

James E. McDonald

James E. McDonald

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Monday, September 18, 1989

(~~Sub~~) Committee: Full

Public Field Hearing

met at 9:07 a.m. o'clock, in ~~Room~~ Talbot County Community Center, Easton, MD

for the purpose of reviewing issues relating to the formulation of the 1990 Farm Bill.

The following Members were present:

Mr. de la Garza	Mr.	Mr.
Mr. Dyson	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Mr. Fred Clark, Associate Counsel
Mr. Marshall Livingston, Staff Assistant

Witnesses:

Welcome: Honorable Herbert L. Andrew, III, Talbot County Councilman, Easton, Maryland

1. The Honorable Wayne A. Cawley, Jr., Secretary of Agriculture, Maryland Department of Agriculture, Annapolis, Maryland

2. PANEL:

   Dr. Russell A. Brinsfield, Wye Research and Education Center, University of Maryland Extension Service, Queenstown, Maryland

   Dr. William P. Hytche, Chancellor, University of Maryland Eastern Shore, Princess Anne, Maryland

   Dr. Craig S. Oliver, University of Maryland Extension Service, University of Maryland at College Park, College Park, Maryland

3. PANEL:

   Mr. J. Bill Satterfield, Executive Assistant, Delmarva Poultry Industry, Georgetown, Delaware

   Mr. Milton M. Malkus, Mid-Atlantic Soybean Association, Salisbury, Maryland

   Mr. Jesse I. Burall, Vice President, Mid-Atlantic Division of Dairymen, Inc., Monrovia, Maryland

   Mr. Robert Allen Davis, President, Maryland Grain Producers, Frederick, Maryland

4. PANEL:

   Mr. Robert E. Wilson, President, Maryland Farm Bureau, Randallstown, Maryland

   Mr. Royden N. Powell, III, President, Maryland Association of Soil Conservation Districts, Inc., Centreville, Maryland

5. PANEL:

   Mr. Hank A. Spies, Cordova, Maryland

   Mr. Steven H. Walter, Hughesville, Maryland

   Mr. Paul L. Phillips, Woolford, Maryland

Monday, September 18, 1989
Committee on Agriculture
Public Field Hearing, Easton, Maryland
Review of issues relating to the
formulation of 1990 Farm Bill

Chairman de la Garza called the meeting to order and recognized Talbot County Councilman Andrew, who welcomed the Full Committee to the Eastern Shore. Chairman de la Garza made a brief opening comment. Congressman Dyson also made a brief opening statement about the Eastern Shore's agricultural producing areas.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, witnesses were questioned by the Members attending the hearing.

Congressman Dyson made closing remarks. The meeting was adjourned at 11:53 a.m.

Marshall Livingston

Marshall Livingston

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Monday, September 18, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Field Hearing

met at 9:45 a.m. o'clock, in ~~Room~~ West Virginia Institute of Technology, Montgomery, West Virginia
for the purpose of reviewing rural development needs and issues

The following Members were present:

Mr. English	Mr.	Mr.
Mr. Staggers	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

James E. McDonald, Subcommittee Consultant
Joe Muldoon, Majority Assistant Counsel

Witnesses:

1. Dr. Robert C. Gillespie, President, West Virginia Institute of Technology, Old Main Building, Montgomery, West Virginia

2. Dr. William H. Miernyk, L.J. Buchan Distinguished Professor, West Virginia Institute of Technology, 2300 Orndorff Hall, Montgomery, West Virginia

3. Mr. James R. Christie, Director, Governor's Office of Community and Industrial Development, Room M-146 State Capitol, Charleston, West Virginia

4. Mr. John D. Hurd, President, West Virginia Chamber of Commerce, P.O. Box 2789, Charleston, West Virginia

5. Mr. Timothy R. Oxley, Executive Director, Region Four Planning and Development Council, 500 B Main Street, Summersville, West Virginia

6. Ms. Chris Weiss, Ms. Foundation for Women and Women's World Banking, P.O. Box 2125, Charleston, West Virginia

7. Ms. Kate Fitzgerald, Director of Community Economic Development, Women & Employment, 1217 Lee Street, Charleston, West Virginia

8. Mr. Fred D. Stottlemyer, President, West Virginia Rural Water Association, P.O. Box 225, Teays, West Virginia

9. Mr. Chester E. Fleming, Program Director, West Virginia Rural Water Association, P.O. Box 225, Teays, West Virginia

10. Mr. Charles D. Reese, Agronomist, Plants and Ideas Inc., 2001 Springdale Drive, Martinsburg, West Virginia

11. Ms. Rachel B. Tompkins, Associate Provost for Extension, Economic Development and the Cooperative Extension Service, West Virginia University, Morgantown, West Virginia

Monday, September 18, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

12. Mr. Franklin R. Schutz, Associate Director, National Small Flows Clearinghouse, West Virginia University, Morgantown, West Virginia

13. Mr. Jeffrey G. Yokum, Student and 4-H Club Member, Route 2, Box 196, Petersburg, West Virginia

14. Mr. Richard D. Tennant, West Virginia Vice President, West Virginia Future Farmers of America, Star Route 1, Box 90, Knob Fork, West Virginia

15. Miss Pamela K. White, West Virginia President, West Virginia Association of Future Homemakers of America, Route 2, Box 50-A, Sinks Grove, West Virginia

16. Mr. George W. Yost, Manager of Market Research and Economic Development, Monongahela Power and Potomac Edison Company, 1310 Fairmont Avenue, Fairmont, West Virginia

17. Mr. Michael L. Cross, General Manager, Harrison Rural Electrification Association, Box 2464, Clarksburg, West Virginia

18. Dr. Christine L. Barry, Director, Institute for International Trade Development, Marshall University, 1050 Fourth Avenue, Huntington, West Virginia

19. Dr. E. Bowie Kahle, Professor and Director of the Division of Clinical Nutrition, Family and Community Health, Marshall University School of Medicine, Huntington, West Virginia

20. Mr. Dean R. Kenny, Program Manager, Small Business Development Center, Concord College, Athens, West Virginia

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Monday, September 18, 1989
Conservation, Credit and Rural
Development Subcommittee
Public Field Hearing
Rural Development Issues

Chairman English called the field hearing to order at 9:45 a.m. by noting this was the sixth field hearing addressing rural development issues and that the subcommittee was now prepared to begin drafting rural development legislation. Congressman Staggers then welcomed the subcommittee to West Virginia and introduced Dr. Robert Gillespie, President of West Virginia Institute of Technology who welcomed the subcommittee to the Institute.

Witness testimony addressed a number of issues including development needs and programs in place, transportation, health and nutrition, infrastructure, financing and entrepreneurship. The subcommittee also heard from a panel of three young people who discussed life in rural West Virginia and their plans for the future. After their testimony, each witness was questioned by Chairman English and Congressman Staggers.

Chairman English adjourned the field hearing at 1:30 p.m.

James E. McDonald
Subcommittee Consultant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, September 20, 1989

(Sub) Committee: Forests, Family Farms, and Energy and Department Operations, Research, and Foreign Agriculture
Business Meeting and Joint Public Hearing

met at 9:45 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 2144, the Urban and Community Forestry Act of 1989, and reviewing forestry research and Forest Service facilities

The following Members were present:

FFFE	DORFA	
Mr. Volkmer	Mr. Brown	Mr.
Mr. Olin	Mr. Stenholm	Mr.
Mr. Stallings	Mr. Olin	Mr.
Mr. Jontz	Mr. Volkmer	Mr.
Mr. Johnson	Mr. Jontz	Mr.
Mr. de la Garza	Mr. de la Garza	Mr.
Mr. ex officio	Mr. ex officio	Mr.
Mr. Morrison	Mr. Roberts	Mr.
Mr. Smith	Mr. Morrison	Mr.
Mr. Schuette	Mr.	Mr.
Mr. Herger	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Joe Muldoon, Majority Assistant Counsel
Tim DeCoster, Subcommittee Staff Director
William A. Stiles, Jr., Subcommittee Staff Director
Rob Myers, Staff Scientist
Allison Biggs, Minority Consultant
Glenda Temple, Clerk
Jim Lyons, Staff Assistant

Witnesses:

1. Panel:

Mr. Jerry A. Sesco, Deputy Chief for Research, Forest Service, U.S. Department of Agriculture, Washington, D.C.

Acc. by: Mr. Eldon Ross, Associate Deputy Chief for Research, Forest Service, USDA

Mr. James C. Overbay, Deputy Chief for Facilities, Forest Service, U.S. Department of Agriculture, Washington, D.C.

Wednesday, September 20, 1989
Subcommittee on Forests, Family Farms, and Energy
Subcommittee on Department Operations, Research, and Foreign Agriculture
Business Meeting and Joint Public Hearing
Urban and Community Forestry Act - H.R. 2144
Review forestry research and Forest Service facilities

Action Taken:

-- By voice vote Volkmer substitute amendment to H.R. 2144 agreed to.

-- By voice vote H.R. 2144, as amended, ordered reported to the full Committee.

Chairman Volkmer called the Forests, Family Farms, and Energy Subcommittee to order for the purpose of considering H.R. 2144, a bill to improve forest management in urban areas and other communities, and for other purposes. (See attached copy of bill.) Opening comments were made by Messrs. Volkmer, Morrison, and Jontz.

Discussion occurred. Staff was directed to work with the appropriate Forest Service people to clarify funding for the legislation prior to full Committee consideration.

Mr. Volkmer offered the attached amendment in the nature of a substitute (see also explanations and section-by-section analysis). Discussion occurred and by a voice vote the amendment was adopted.

Mr. Morrison moved that H.R. 2144, as amended, be ordered reported to the full Committee with the recommendation that it do pass. By a voice vote the motion was agreed to in the presence of a quorum.

At 10:00 a.m. the business meeting was adjourned, to reconvene immediately following a vote on the House floor.

At 10:20 a.m. the Subcommittees on Forests, Family Farms, and Energy and Department Operations, Research, and Foreign Agriculture met in a joint public hearing for the purpose of reviewing forestry research and Forest Service facilities. Messrs. Volkmer, Morrison, Smith, and Brown made opening comments.

Wednesday, September 20, 1989
Subcommittee on Forests, Family Farms, and Energy
Subcommittee on Department Operations, Research, and Foreign Agriculture
Business Meeting and Joint Public Hearing
Urban and Community Forestry Act - H.R. 2144
Review forestry research and Forest Service facilities

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the Forest Service representatives were questioned by the Members of the Subcommittees.

At 11:55 a.m. the joint meeting was adjourned to reconvene subject to the respective Chairs.

Glenda Temple

Glenda Temple

OPENING REMARKS
HON. HAROLD L. VOLKMER
SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY
SEPTEMBER 20, 1989

THE SUBCOMMITTEE ON FORESTS, FAMILY FARMS, AND ENERGY IS MEETING THIS MORNING WITH THE SUBCOMMITTEE ON DEPARTMENT OPERATIONS, RESEARCH, AND FOREIGN AGRICULTURE, TO REVIEW TWO SUBJECTS IN WHICH WE HAVE MUTUAL INTERESTS.

FIRST, WE WILL REVIEW THE STATUS OF FORESTRY RESEARCH ACTIVITIES IN THE FOREST SERVICE. FOLLOWING THAT, WE WILL REVIEW FOREST SERVICE FACILITIES, BOTH RESEARCH AND ADMINISTRATIVE.

OUR INTENT IN CONDUCTING THIS HEARING IS TO DEVELOP A GREATER UNDERSTANDING OF WHERE THE AGENCY IS HEADED WITH ITS RESEARCH PROGRAM, AND HOW WELL THE FOREST SERVICE IS ABLE TO CARRY OUT ITS MISSION WITH EXISTING FACILITIES.

IN PARTICULAR, WE ARE INTERESTED IN CONSIDERING RECENT BUDGET TRENDS IN THESE TWO IMPORTANT AREAS, SO THAT WE MAY BE BETTER PREPARED FOR THE NEXT ROUND OF THE BUDGET AND APPROPRIATIONS PROCESS. WE NEED TO KNOW IF FUNDING HAS BEEN SUFFICIENT TO MEET THE NATION'S NEEDS IN THESE AREAS AND WHAT ACTIVITIES ARE BEING FOREGONE DUE TO FUNDING LIMITATIONS, IN ORDER TO MAKE REASONED JUDGMENTS AS TO THE ALLOCATION OF MONEY FOR FOREST SERVICE PROGRAMS NEXT YEAR.

WE PLAN TO CONTINUE THIS DETAILED REVIEW OF FOREST SERVICE PROGRAMS IN THE FUTURE, AND ANY COMMENTS FROM MEMBERS AS TO PARTICULAR AREAS OF INTEREST WILL BE WELCOME.

BEFORE YIELDING, I WANT TO EXPRESS MY APPRECIATION TO THE CHAIRMAN OF THE DEPARTMENT OPERATIONS SUBCOMMITTEE, MR. BROWN, FOR HIS INTEREST IN THESE SUBJECTS AND HIS COOPERATION IN DEVELOPING THIS HEARING. WE FIRST SPOKE OF THESE MATTERS DURING OUR ORGANIZATIONAL MEETINGS EARLY IN THE YEAR, AND I AM PLEASED WE HAVE BEEN ABLE TO INCLUDE THIS JOINT HEARING IN OUR SCHEDULE.

[YIELD TO MR. BROWN]

(H.R. 2144 is held in the committee files.)

STATEMENT OF
THE HONORABLE SID MORRISON
BEFORE THE FOREST, FAMILY FARMS
AND ENERGY SUBCOMMITTEE

SEPTEMBER 20, 1989

Mr. Chairman, I am pleased to join you today to consider H.R. 2144, the Urban and Community Forestry Act, introduced by Mr. Jontz of Indiana. Since our hearing on this bill on June 7, Mr. Jontz has gone to a good deal of effort to revise and streamline his bill offering a proactive approach to some everyday forestry problems in our communities. I commend him for his efforts and look forward to reporting this legislation from the Subcommittee today.

Also on our agenda today is an opportunity to hear from the Forest Service on their ongoing Research activities and the Service's facilities situation. It is our goal to review the funding trends for these areas, and use this information to make more informed decisions in these areas during the budget cycle next year. I welcome our witnesses and look forward to hearing their testimony.

The Forest Service's Forest Research program is the largest forestry research program in the world, reflecting an annual budget of over $130 million. The mission of the research program directs the more than 700 scientists in 76 locations across the nation including the Pacific Northwest, conducting over 2,300 individual studies, to produce new knowledge and improved methods of natural resource management. I am pleased to share the Forest Service's view that this work has resulted in forests which better meet our nation's needs. Their many challenges include Fire Research, Forest Products Research, Global Warming and Acid Rain research. It is truly a fascinating branch of the Forest Service family tree.

In addition to research, we will also hear testimony regarding Forest Service Facility management. I welcome this chance to learn more about the unique facility requirements of this agency especially since most of us only see their work in the great outdoors, we don't take the time to consider all the work that is done and housed behind the scenes. I became aware first hand of vital role the facilities play in the work of the Forest Service when a warehouse belonging to one of the ranger districts in my Congressional district was destroyed by fire. Not only was the structure crucial to their service to the public, but also the equipment house inside which had been collected for decades. I share the Ranger's frustration of not finding the funds to have the warehouse rebuilt and the contents replaced this budget cycle and look forward to working with the Forest Service toward that goal in the next cycle.

Thank you, Mr. Chairman.

EWB2144A

9-19-89

3:00 p.m.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2144

OFFERED BY MR. VOLKMER

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Urban and Community Forestry Act of 1989''.

SEC. 2. FINDINGS.

The Congress finds that--

(1) the health of forests in urban areas and communities, including cities, their suburbs, and towns, in the United States is on the decline;

(2) forest lands, shade trees, and open spaces in urban areas and communities improve the quality of life for residents;

(3) forest lands and associated natural resources enhance the economic value of residential and commercial property in urban and community settings;

(4) tree plantings in urban areas and communities can aid in reducing carbon dioxide emissions, mitigating the heat island effect, and reducing energy consumption, thus

contributing to efforts to reduce global warming trends;

(5) efforts to encourage tree plantings and protect existing open spaces in urban areas and communities can contribute to the social well-being and promote a sense of community in these areas; and

(6) strengthened research, education, technical assistance, and public information and participation in tree planting and maintenance programs for urban and community forests are needed to provide for the protection and expansion of tree cover and open space in urban areas and communities.

SEC. 3. PURPOSES.

The purposes of this Act are to--

(1) improve understanding of the benefits of preserving existing tree cover in urban areas and communities;

(2) encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;

(3) provide education programs and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban and community settings and identifying appropriate tree species and sites for expanding forest cover;

(4) implement a tree planting program to complement urban and community tree maintenance and open space programs;

(5) promote the establishment of demonstration projects in selected urban and community settings to illustrate the benefits of maintaining and creating forest cover and trees;

(6) enhance the technical skills and understanding of sound tree maintenance and arborcultural practices of individuals involved in the planning, development, and maintenance of urban and community forests and trees; and

(7) expand existing research and educational efforts intended to improve understanding of tree growth and maintenance, tree physiology and morphology, species adaptations, forest ecology, and the economic, environmental, social, and psychological benefits of trees and forest cover in urban and community environments.

SEC. 4. EDOCATION, TECHNICAL ASSISTANCE, AND RESEARCH ACTIVITIES.

(a) AMENDMENT TO COOPERATIVE FORESTRY ASSISTANCE ACT.--(1) Section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) is amended by adding at the end the following:

``(d) In carrying out this section the Secretary, in

cooperation with State foresters and State extension agents or equivalent State officials, shall implement an expanded program of education and technical assistance for urban forest resources. The program shall be designed to--

``(1) assist urban areas and communities in conducting inventories of their forest resources, including inventories of the species, number, location, and health of trees in urban areas and communities, and the status of related resources (including fish and wildlife habitat, water resources, and trails);

``(2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;

``(3) improve education and technical support in--

``(A) selecting tree species appropriate for planting in urban and community environments;

``(B) providing for proper tree planting, maintenance, and protection in urban areas and communities;

``(C) protecting individual trees and preserving existing open spaces; and

``(D) identifying opportunities for expanding tree cover in urban areas and communities;

``(4) assist in the development of State and local

management plans for trees and associated resources in urban areas and communities; and

``(5) increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.

``(e)(1) The Secretary shall establish an urban and community forestry challenge cost share program. Funds or other support shall be provided under such program to eligible communities and organizations, on a competitive basis, for urban and community forestry projects. The Secretary shall annually make awards under the program in accordance with criteria developed by, and after consideration of recommendations received from, the National Urban and Community Forestry Advisory Council. Such awards shall be consistent with the cost share requirements of this section.

``(2) The Federal share of support for a project provided under this subsection may not exceed 50 percent of the support for that project and shall be provided on a matching basis. The non-Federal share of such support may be in the form of cash, services, or in-kind contributions, fairly valued.

``(f)(1) The Secretary, in cooperation with the State foresters or equivalent State officials, shall assist in identifying sources of plant materials and make such materials available to urban areas and communities from public or private sources for the purpose of reforesting open spaces, replacing dead and dying urban trees, and expanding tree cover in urban areas and communities.

``(2) Through the expanded education and technical assistance authorized by subsection (d), the Secretary shall assist in the selection, planting, and maintenance of such materials.

``(g)(1) The Secretary shall establish a National Urban and Community Forestry Advisory Council for the purpose of--

``(A) developing a national urban and community forestry action plan;

``(B) evaluating the implementation of that plan; and

``(C) developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost share program under subsection (e).

``(2)(A) The Council shall be composed of 15 members appointed by the Secretary, as follows:

``(i) 2 members representing national nonprofit forestry and conservation citizen organizations;

``(ii) 3 members, 1 each representing State, county,

and city and town governments;

``(iii) 1 member representing the forest products, nursery, or related industries;

``(iv) 1 member representing urban forestry, landscape, or design consultants;

``(v) 2 members representing academic institutions with an expertise in urban and community forestry activities;

``(vi) 1 member representing State forestry agencies or an equivalent State agency;

``(vii) 1 member representing a professional renewable natural resource or arboriculture society;

``(viii) 1 member from the Extension Service;

``(ix) 1 member from the Forest Service;

``(x) 2 members who are not officers or employees of any governmental body, 1 of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active in urban and community forestry.

``(B) A vacancy in the Council shall be filled in the manner in which the original appointment was made.

``(C) The Secretary shall select 1 member, from members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, who shall serve as the chairman of the Council.

``(D)(i) Except as provided in clauses (ii) and (iii), members shall be appointed for terms of 3 years, and no member may serve more than two consecutive terms on the Council.

``(ii) Of the members first appointed--

``(I) 5, including the chairman and 2 governmental employees, shall be appointed for a term of 3 years;

``(II) 5, including 2 governmental employees, shall be appointed for a term of 2 years; and

``(III) 5, including 2 governmental employees, shall be appointed for a term of 1 year,

as designated by the Secretary at the time of appointment.

``(iii) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

``(E)(i) Except as provided in clause (ii), members of the Council shall serve without pay, but may be reimbursed for reasonable costs incurred while in the actual performance of duties vested in the Council.

``(ii) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

``(iii) The Secretary shall provide financial and administrative support for the Council.

``(3) Within 1 year after the date of enactment of this subsection and every 10 years thereafter, the Council shall prepare a National Urban and Community Forestry Action Plan. The plan shall include (but not be limited to) the following:

``(A) An assessment of the current status of urban forest resources in the United States.

``(B) A review of urban and community forestry programs and activities in the United States, including education and technical assistance activities conducted by the Forest Service, Extension Service, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and interested others.

``(C) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies.

``(D) A review of urban and community forestry research, including--

``(i) a review of all ongoing research associated with urban and community forests, arborcultural practices, and the economic, social, and

psychological benefits of trees and forest cover in urban and community environments being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;

``(ii) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and

``(iii) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years.

``(E) The criteria to be used for evaluating proposed projects under the urban and community forestry challenge cost share program under subsection (e), with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities.

``(F) An estimate of the resources needed to implement the plan for the succeeding 10 fiscal years.

``(4) The plan may be amended by a majority of the Council members. Such amendments shall be incorporated into the Council's annual review of the plan submitted to the Secretary pursuant to paragraph (5) of this subsection.

``(5) The Council shall submit the plan to the Secretary and the Committee on Agriculture of the House of

Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate upon its completion. Beginning no later than one year after the plan is submitted and annually thereafter, the Council shall submit a review of the plan to the Secretary no later than December 31. The review shall consist of--

``(A) the Council's assessment of prior year accomplishments in research, education, technical assistance, and related activities in urban and community forestry;

``(B) the Council's recommendations for research, education, technical assistance, and related activities in the succeeding year; and

``(C) the Council's recommendations for the urban and community forestry challenge cost share projects to be funded during the succeeding year.

The review to be submitted to the Secretary shall be incorporated into the annual report of the Forest Service to the Congress under the Forest and Rangeland Renewable Resources Planning Act of 1974.

``(6) Upon request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this Act.

``(7) The Federal Advisory Committee Act (5 U.S.C. App.)

shall not apply to the Council.

``(h) For the purposes of this section--

``(1) the term `Council' means the National Urban and Community Forestry Advisory Council established under subsection (g);

``(2) the term `plan' means the National Urban and Community Forestry Action Plan developed under subsection (g)(3); and

``(3) the term `urban and community area' includes cities, their suburbs, and towns.

(b) AMENDMENT TO RENEWABLE RESOURCES EXTENSION ACT.--(1) Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended--

(A) by striking ``and'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ``; and''; and

(C) by adding at the end the following new paragraph:

``(9) in cooperation with State foresters or equivalent State officials, increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community area environments and expand knowledge of the ecological relationships and benefits of trees and related resources in urban and community environments.''.

(2) Section 5(a) of the Renewable Resources Extension Act

of 1978 (16 U.S.C. 1674(a)) is amended by striking ``for planting and management of trees and forests in urban areas,'' and inserting ``urban and community forestry activities,''.

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2144

BRIEF SUMMARY

As stated in Section 3, the purposes of the bill are to:

* improve understanding of the benefits of preserving existing urban and community tree cover;
* encourage the maintenance of such trees;
* provide education programs and technical assistance in maintaining and expanding forest cover;
* implement a tree planting program;
* promote the establishment of demonstration projects to illustrate benefits of tree cover;
* enhance technical skills of individuals involved in planning, development and maintenance of urban and community trees; and
* expand existing research and educational efforts to improve understanding of tree growth and the benefits of trees in urban and community environments.

H.R 2144 adds to Section 6 (Urban Forestry Assistance) of the Cooperative Forestry Assistance Act of 1978, a requirement that the Secretary of Agriculture, in cooperation with State foresters and State extension agents implement an expanded program of education and technical assistance for urban forest resources.

Financial, educational, and technical assistance would be provided to States and local communities and organizations to aid in conducting inventories, organizing programs, improving technical support, developing management plans, increasing public understanding of benefits of trees in urban and community environments, and identifying sources of plant materials for reforestation and expanded tree cover.

The Secretary would be further directed to establish an urban and community forestry challenge cost share program. Awards would be made in accordance with criteria developed by the National Urban and Community Forestry Advisory Council, created by H.R. 2144.

The advisory council, consisting of representatives of various private and public entities, is also charged with developing a national urban and community forestry action plan and evaluating the implementation of that plan.

H.R. 2144 also amends the Renewable Resources Extension Act of 1978 by adding the increase of public understanding of the values of trees in urban and community environments to the types of programs which the Secretary of Agriculture, in cooperation with State directors of cooperative extension service programs, is required to carry out.

BRIEF EXPLANATION OF THE AMENDMENT

IN THE NATURE OF A SUBSTITUTE TO H.R. 2144

OFFERED BY MR. VOLKMER

The bill requires the Secretary of Agriculture to implement an expanded program of education and technical assistance to improve urban forest resources.

The bill also requires the Secretary to establish an urban and community forestry challenge cost share program.

The bill requires the Secretary to establish a 15 member National Urban and Community Forestry Advisory Council to develop the criteria for the cost share program and develop a national urban and community forestry action plan.

The bill also directs the Secretary to increase public understanding of the values of urban forestry.

SECTION-BY-SECTION ANALYSIS OF THE
AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2144
OFFERED BY MR. VOLKMER

SECTION 1.--SHORT TITLE.

Section 1 gives the short title of the bill as the "Urban and Community Forestry Act of 1989".

SECTION 2.--FINDINGS.

Section 2 contains various findings of Congress related to forests and trees in urban areas and communities.

SECTION 3.--PURPOSES.

Section 3 lists the purposes of the bill.

SECTION 4.--EDUCATION, TECHNICAL ASSISTANCE, AND RESEARCH ACTIVITIES.

Section 4(a) amends section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) by adding 5 new subsections as follows:

The new section 6(d) directs the Secretary of Agriculture to implement an expanded program of education and technical assistance for urban forest resources. This program must be designed to--

(1) assist urban areas and communities in conducting inventories of their forest resources, including inventories of the species, number, location, and health of trees in urban areas and communities, and the status of related resources (including fish and wildlife habitat, water resources, and trails);

(2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;

(3) improve education and technical support in--

(A) selecting tree species appropriate for planting in urban and community environments;

(B) providing for proper tree planting, maintenance, and protection in urban areas and communities;

(C) protecting individual trees and preserving existing open spaces; and

(D) identifying opportunities for expanding tree cover in urban areas and communities;

(4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and

(5) increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.

The new section 6(e) directs the Secretary to establish a challenge cost share program which will provide funds on a competitive basis for urban and community forestry projects. This section directs the Secretary to make annual awards under

the program in accordance with criteria and recommendations developed by the National Urban and Community Forestry Advisory Council established under the new section 6(g). Section 6(e) mandates that the federal share of support for a project that is provided under that subsection may not exceed 50 percent of the support for that project and is to be provided on a matching basis. Section 6(e) further provides that the non-Federal share of such support may be in the form of cash, services, or in-kind contributions, fairly valued.

The new section 6(f) directs the Secretary, in cooperation with State forestry officials, to assist in identifying sources of plant materials and to make such materials available to urban areas and communities from public or private sources for the purpose of reforesting open spaces, replacing dead and dying urban trees, and expanding tree cover in urban areas and communities. Section 6(f) also directs the Secretary to utilize the expanded program of education and technical assistance authorized by section 6(d) to assist in the selection, planting, and maintenance of such materials.

The new section 6(g) directs the Secretary to establish a National Urban and Community Forestry Advisory Council for the purpose of--

1) developing a national urban and community forestry action plan;

2) evaluating the implementation of that plan; and

3) developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost share program under section 6(e).

The new section 6(g) directs the Secretary to appoint the 15 members of the council, to be selected as follows:

1) 2 members representing national nonprofit forestry and conservation citizen organizations;

2) 3 members, 1 each representing State, county, and city and town governments;

3) 1 member representing the forest products, nursery, or related industries;

4) 1 member representing urban forestry, landscape, or design consultants;

5) 2 members representing academic institutions with an expertise in urban and community forestry activities;

6) 1 member representing State forestry agencies or an equivalent State agency;

7) 1 member representing a professional renewable natural resource or arboriculture society;

8) 1 member from the Extension Service;

9) 1 member from the Forest Service;

10) 2 members who are not officers or employees of any governmental body, 1 of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active

in urban and community forestry.

Any vacancy in the Council is to be filled in the manner in which the original appointment was made. Section 6(g) directs the Secretary to select 1 member, from members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, to serve as the chairman of the Council.

The new section 6(g) limits the appointments of the various members of the Council to three years (except for the initial Council, one third of whose terms are for one year and one third are for 2 years) and to no more than two consecutive terms. Section 6(g) further requires appointees to serve without pay but allows reimbursement for reasonable costs incurred in the performance of duties as a member of the Council. Section 6(g) directs the Secretary to provide financial and administrative support for the Council.

The new section 6(g)(3) directs the Council to prepare a National Urban and Community Forestry Action Plan. The plan must include (but not be limited to) the following:

(1) An assessment of the current status of urban forest resources in the United States.

(2) A review of urban and community forestry programs and activities in the United States, including education and technical assistance activities conducted by the Forest Service, Extension Service, and other Federal agencies, the

State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and interested others.

(3) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies.

(4) A review of urban and community forestry research, including--

(a) a review of all ongoing research associated with urban and community forests, arboricultural practices, and the economic, social, and psychological benefits of trees and forest cover in urban and community environments being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;

(b) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and

(c) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years.

(5) The criteria to be used for evaluating proposed projects under the urban and community forestry challenge

cost share program under section 6(e), with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities.

(6) An estimate of the resources needed to implement the plan for the succeeding 10 fiscal years.

The new section 6(g) also provides for amendments to the plan, submission of the plan to the Secretary and the House and Senate Agriculture Committees, and an annual review of the plan by the Council. The Secretary is authorized to detail USDA employees to the Council, on a reimbursable basis. The Federal Advisory Committee Act would not be applicable to the Council.

The new section 6(h) defines, for purposes of that section, the term "Council" to mean the National Urban and Community Forestry Advisory Council, the term "plan" to mean the National Urban and Community Forestry Action Plan authorized in section 6(g), and the term "urban and community area" to include cities, their suburbs, and towns.

Section 4(b) of the bill amends section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) by adding to the end a new paragraph. The new paragraph directs the Secretary, under conditions the Secretary may prescribe and in cooperation with State directors of cooperative extension service programs, eligible colleges and universities, and State foresters

or equivalent State officials, to increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community area environments and expand knowledge of the ecological relationships and benefits of trees and related resources in urban and community environments.

Section 4(b) amends section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674(a)) by expanding the scope of the existing Renewable Resources Extension Programs for "planting and management of trees and forests in urban areas" to include instead "urban and community forestry activities".

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

SEP 13 '89

Honorable E (Kika) de la Garza
Chairman, Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to your request for the views of this Department regarding H.R. 2144, a bill "To improve forest management in urban areas and other communities, and for other purposes."

The Department of Agriculture would not object to the enactment of H.R. 2144 if it is amended as we suggest.

H.R. 2144 would require the Secretary of Agriculture to expand educational and technical assistance and implement a competitive grants program for urban and community forestry. A 15-member National Urban and Community Forestry Advisory Council would be established to develop an action plan and criteria for competitive grants. Up to $20 million would be authorized to be appropriated for each of the fiscal years 1990 through 1999.

Section 4 would require the Secretary to submit a report to the Congress which would review ongoing research associated with urban forests, make recommendations for new or expanded research, and summarize priorities. The Forest and Rangeland Renewable Resources Research Act (92 Stat. 353, as amended) and the Forest and Rangeland Renewable Resources Planning Act (88 Stat. 476, as amended) provide adequate authority for this purpose. In our judgment, these authorities, combined with the annual budget process, are sufficient to meet the intent of section 4. We recommend that section 4 be deleted.

Education and technical assistance provided by the Department of Agriculture must be strongly coordinated with the State Foresters and State extension agents. We recommend that section 5(a) be amended to strengthen this coordination.

In order for the proposed National Urban and Community Forestry Advisory council to function smoothly and with strong support from the general public, we recommend that several changes be made in the member composition of the Council, the length of time initial members serve on the council, and the Secretary's role in administering the council.

Section 6(c) of the Cooperative Forestry Assistance Act of 1978 (92 Stat. 365) and section 6 of the Renewable Resources Extension Act of 1978 (92 Stat. 349, as amended) already authorize the appropriation of such funds as may be needed for urban forestry assistance and urban forestry educational programs. Since H.R. 2144 would amend the Cooperative Forestry Assistance Act, the funding authorization in subsection 5(a) is not needed and should be deleted.

Federal financial assistance for urban forestry programs must continue to be considered in light of other budget priorities and the need to reduce the Federal budget deficit. It is appropriate that States, cities, towns, organizations and individuals share a substantial portion of the costs proposed in H.R. 2144. We support the basic objective of the competitive grants program that would be created pursuant to H.R. 2144. However, we recommend that the bill be amended to authorize challenge cost-share partnerships rather than require a formal competitive grants process. This change would reduce the administrative cost while increasing the overall effectiveness of the program.

We estimate the average annual cost of our administrative support to the council would be about $200,000. Federal funding for the challenge cost-share partnerships we recommend would vary annually depending on overall budget priorities.

Our recommended amendments are presented in the enclosed supplemental statement.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Clayton Yeutter
Secretary

Enclosure

SUPPLEMENTAL STATEMENT

UNITED STATES DEPARTMENT OF AGRICULTURE

CONCERNING H.R. 2144

"URBAN AND COMMUNITY FORESTRY ACT OF 1989"

This supplemental statement is based on H.R. 2144. Material to be deleted is enclosed within brackets [ ] and is struck over. Material to be inserted is underlined.

A BILL

To improve forest management in urban areas and other communities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Urban and Community Forestry Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that--

(1) the health of forests in urban areas, including cities, their suburbs, and towns, in the United States is on the decline;

(2) forest lands, shade trees, and open spaces in urban areas improve the quality of life for residents;

(3) forest lands and associated natural resources enhance the economic value of residential and commercial property in urban settings;

(4) tree plantings in urban areas can aid in reducing carbon dioxide emissions, mitigating the heat island effect, and reducing energy consumption, thus contributing to efforts to reduce global warming trends;

(5) efforts to encourage tree plantings and protect existing open spaces in urban areas can contribute to the social well-being and promote a sense of community in these areas; and

(6) strengthened research, education, technical assistance, and public information and participation in tree planting and maintenance programs for the urban forest resource [is] <u>are</u> needed to provide for the protection and expansion of tree cover and open space in urban areas.

SEC. 3. PURPOSES.

The purposes of this Act are to--

(1) improve understanding of the benefits of preserving

existing tree cover in urban areas;

(2) encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;

(3) provide education programs and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban settings and identifying appropriate tree species and sites for expanding forest cover;

(4) implement a tree planting program to complement urban tree maintenance and open space programs;

(5) promote the establishment of demonstration projects in selected urban settings to demonstrate the benefits of maintaining and creating forest cover and trees;

(6) enhance the technical skills and understanding of sound tree maintenance and arborcultural practices of individuals involved in the planning, development, and maintenance of community forests and trees; and

(7) expand existing research and educational efforts intended to improve understanding of tree growth and maintenance, tree physiology and morphology, species adaptations, forest ecology, and the economic, environmental, social, and psychological benefits of trees and forest cover in urban environments.

[SEC.-4.-URBAN-AND-COMMUNITY-FORESTRY-RESEARCH-PROGRAM.

The-Secretary-of-Agriculture-shall,-within-180-days-after-the-date-of enactment-of-this-Act,--submit-a-report-to-the-Congress-which-includes-

(1)-a-review-of-all-ongoing-research-associated-with-urban-forests, arboricultural-practices,-and-the-economic,-social,-and-psychological-benefits of-trees-and-forest-cover-in-urban-environments-being-conducted-by-the-Forest Service,-other-Federal-agencies,-and-associated-land-grant-colleges-and universities;

(2)--recommendations-for-new-and-expanded-research-efforts-directed toward-urban-forestry-concerns;-and

(3)-a-summary-of-research-priorities-and-an-estimate-of-the-funds needed-to-implement-such-research,-on-an-annual-basis,-for-the-next-10-years.]

SEC.[5] 4. EDUCATION AND TECHNICAL ASSISTANCE ACTIVITIES.

(a) In General.--Section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) is amended by adding at the end the following:

"(d) In carrying out this section the Secretary, in cooperation with State foresters, State extension agents or equivalent State officials, shall implement an expanded program of education and technical assistance for urban forest resources. The program shall be designed to--

"(1) assist such areas in conducting inventories of their urban forest resource, including inventories of the species, number, location, and health of urban trees, and the status of related resources (including fish and wildlife habitat, water resources, and trails);

"(2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;

"(3) improve education and technical support in--

"(A) selecting tree species appropriate for planting in urban environments;

"(B) providing for proper tree planting, maintenance, and protection in urban areas;

"(C) protecting individual trees and preserving existing open spaces; and

"(D) identifying opportunities for expanding tree cover in urban areas;

"(4) assist in the development of State and local management plans for trees and associated resources in urban areas; and

"(5) increase public understanding of the economic, social,

environmental, and psychological values of trees and open space urban area environments and expand the knowledge of the ecological relationships and benefits of trees and related resources in urban environments.

"(e)(1) The Secretary [shall] is authorized to establish an urban and community forestry [competitive grant] challenge cost-share program [to assist in providing support for urban and community forestry projects]. Funds or other forms of support shall be provided under such program [to assist] in partnership with local and community groups [in implementing] for urban and community forestry projects. [Grants made under such program shall be based upon the] The Secretary shall implement such program under whatever conditions the Secretary may prescribe after considering criteria developed by, and recommendations received from, the National Urban and Community Forestry Council.

"(2) The Federal share of support for a project provided under this subsection may not exceed 50 percent of the support for that project and shall be provided on a matching basis. The non-Federal share of such support may be in the form of cash, services, or in-kind contributions, fairly valued.

"(f)(1) The Secretary, in cooperation with the State foresters or equivalent State officials, shall [make sources of] assist in identifying sources of environmentally-adapted plant materials available to urban areas from public or private sources for the purpose of reforesting open spaces, replacing dead and dying urban trees, and expanding tree cover in urban areas.

"(2) Through the expanded education and technical assistance authorized by subsection (d), the Secretary shall assist in the selection, planting, and maintenance of such materials.

"(g)(1) The Secretary shall establish a National Urban and Community Forestry Advisory Council for the purpose of--

"(A) developing a national urban and community forestry action plan;

"(B) evaluating the implementation of that plan; and

"(C) developing criteria for, and submitting recommendations with respect to, the urban and community forestry [competitive-grants] challenge cost-share program under subsection (e).

(2)(A) The Council shall be composed of 15 members appointed by the Secretary, as follows:

"(i) 2 members [from] representing national nonprofit forestry and conservation organizations.

"(ii) [1-member-from-State-government-and-1-member-from-local-governments] 2 members representing urban and community governments, and 1 member representing county governments.

"(iii) 1 member [from] representing the forest products nursery or related industries and 1 member [from] representing forestry, landscape, or urban design consultants.

"(iv) 2 members [from] representing academic institutions with an expertise in urban forestry activities.

"(v) [2] 1 member[s] [from] representing State forestry [organizations] agencies or an equivalent State [organization] agency.

"(vi) [2] 1 member[s] [from] representing the Extension Service.

"(vii) [2] 1 member[s] [from] representing the Forest Service.

"(viii) [1-member-who-is-not-an-officer-or-employee-of-the-United States-and-who-shall-be-the-chairman-of-the-Council] 1 member at large representing citizens action groups.

"(ix) 2 members representing national professional forestry or wildlife societies.

"(B) The chairperson of the Council shall be appointed by the Secretary from among the Council members who are not officers or employees of the United States.

(C) A vacancy in the Council shall be filled in the manner in which the original appointment was made.

"[(B)](D)(i) Except as provided in clauses (ii) and (iii) members shall be appointed for terms of 3 years, and no member may serve more than two consecutive terms on the Council.

"(ii) Of the members first appointed--

(I) [5] 8, including the chairman, shall be appointed for a term of 3 years; and

(II) [5] 7 shall be appointed for a term of 2 years[;-and];

[III)-5-shall-be-appointed-for-a-term-of-1-year-as-designated-by Secretary-at-the-time-of-appointment.]

"(iii) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"[(C)](E)(i) Except as provided in clause (ii), members of the Council shall serve without pay, but may be reimbursed for reasonable costs incurred while in the actual performance of duties vested in the Council.

"(ii) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

"(iii) The Secretary shall provide coordination, financial, and administrative support for the Council.

"(3) Within 1 year after the date of enactment of this subsection, the Council shall prepare a National Urban and Community Forestry Action Plan. The plan shall include (but not be limited to) the following:

"(A) An assessment of the current status of urban forest resources in the United States.

"(B) A review of urban forestry programs and activities in the United States, including education and technical assistance activities conducted by the Forest Service, Extension Service, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and interested others.

"(C) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance, modifications required in existing programs and policies of relevant Federal agencies, and [recommended] research priorities.[for implementing the research program developed by the Secretary under section 4 of the Urban and Community Forestry Act of 1978.]

"(D) An estimate of the resources needed to implement the plan for the succeeding 10 fiscal years.

"(E) The criteria to be used for evaluating proposed projects under the urban and community forestry [competitive-grants] challenge cost-share program under subsection (e), with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas.

"(4) The Council shall submit the plan to the Secretary and the Congress upon its completion. Beginning one year after the plan is in effect, the Council shall [annually] biennially submit a review of the plan to the Secretary and the Congress. The review shall consist of--

"(A) the Council's assessment of [prior-year] accomplishments in research, education, technical assistance, and related activities in urban forestry;

"(B) the Council's recommendations for research, education, technical assistance, and related activities [in-the-succeeding-year]; and

"(C) the Council's recommendations [for] on the types of urban and community forestry [competitive-grant] challenge cost-share projects to be funded [in] during the succeeding two years.

"(5) Upon request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this Act.

"(6) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(h) For the purposes of this section--

"(1) the term 'Council' means the National Urban and Community Forestry Advisory Council established under subsection (g);

"(2) the term 'plan' means the National Urban and Community Forestry Action Plan developed under subsection (g)(3); and

"(3) the term [~~'urban area' includes cities, their suburbs, and towns~~] 'urban and community' refers to incorporated and unincorporated villages, towns, cities and their suburbs.

[~~"(i) There is authorized to be appropriated $20,000,000 for each of the fiscal years 1990 through 1999 to carry out subsections (d), (e), (f), and (g).~~"]

[(b) Conforming Amendment.--Section 6(c) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105(c)) is amended by striking "this section" and inserting "subsection (b)".]

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, September 20, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:24 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the Federal Crop Insurance Program.

The following Members were present:

Mr. English	Mr. Coleman	Also Present
Mr. Tallon	Mr. Gunderson	Mr. Stenholm
Mr. Penny	Mr. Combest	Mr. Dorgan
Mr. Stallings	Mr. Grandy	Mr.
Mr. Staggers	Mr.	Mr.
Mr. Espy	Mr.	Mr.
Mr. Sarpalius	Mr.	Mr.
Ms. Long	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
Bert R. Pena, Staff Director
John E. Hogan, Minority Counsel
Alice Devine, Minority Associate Counsel
Fred Clark, Majority Associate Counsel
Bill Cherry, Subcommittee Staff Director
Jim McDonald, Subcommittee Consultant
Dave Ebersole, Minority Consultant
Sondra Feldstein, Minority Staff Assistant
Jim Davis, Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

1. Mr. John W. Harman, Director, Food and Agriculture Issues, Resources, Community, and Economic Development Division, U.S. General Accounting Office, Washington, DC
   accompanied by:
   Mr. Cliff Fowler, Assistant Director, Food and Agriculture Issues, GAO, and Mr. Jeff Itell, Supervisor Evaluator, GAO

2. Panel
   Mr. Raymond L. Davis, Potter, Nebraska, Co-Chairman, Commission for the Improvement of the Federal Crop Insurance Program, Washington, DC

   Mr. William D. Classen, Des Moines, Iowa, Co-Chairman, Commission for the Improvement of the Federal Crop Insurance Program, Washington, DC
   accompanied by:
   Mr. Carl Rose, Legal Council, Commission, and Ms. Kellye Eversole, Executive Director, Commission

3. Mr. John Marshall, Manager, Federal Crop Insurance Corporation, USDA, Washington, DC

4. Hon. Sarah Vogel, Commissioner of Agriculture, Bismarck, ND

27-445 O - 90 - 28

Wednesday, September 20, 1989
Conservation, Credit, and Rural Development Subcommittee
Public Hearing
Review of the Federal Crop Insurance Program

Chairman English called the meeting to order, and announced that the purpose of this hearing was directed at reforming the Federal Crop Insurance Program. He recognized the other Members of the Subcommittee for their opening comments. The witnesses listed on page two of these minutes then were recognized for their prepared testimony, after which they were questioned by the Members of the Subcommittee.

During the proceedings, one recess was taken, at 11:47 a.m., to enable Members to respond to a recorded vote on the floor of the House. The following special introduction was made: Congressman Dorgan -- Ms. Sarah Vogel, Commissioner of Agriculture from Bismarck, ND.

After brief closing remarks by Chairman English, the meeting was recessed at 2:00 p.m., subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, September 21, 1989

(Sub) Committee s: Domestic Marketing, Consumer Relations, and Nutrition, and Department Operations, Research, and Foreign Agriculture of the Committee on Agriculture and Science, Research and Technology of the Committee on Science, Space, and Technology -- Joint Public Hearing met at 9:35 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing nutrition monitoring

The following Members were present:

DMCRN	DORFA	SRT
Mr. Hatcher	Mr. Brown	Mr. Walgren
Mr. Sarpalius	Mr. Volkmer	Mr. Brown
Mr. Emerson	Mr. Roberts	Mr. Browder
Mr. Lewis	Mr. Grandy	Mr. Boehlert
Mr. Herger	Mr. Walsh	Ms. Schneider
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Agriculture
John E. Hogan
Julia M. Paradis
Dean Mitchell
Lynn Gallagher
William A. Stiles, Jr.
John J. Aguirre
Glenda Temple
Anita Brown
Jim Davis

Science, Space, and Technology
Grace Ostenso
David J. Goldston
Christopher Roosa

Witnesses:

1. Panel:
Dr. J. Michael McGinnis, Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services, Washington, D.C.
Acc. by: Dr. Kathy Wotecki, Deputy Director, Division of Health Examination Statistics, National Center for Health Statistics, HHS

Ms. Ann Chadwick, Acting Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture, Washington, D.C.
Acc. by: Dr. James Heimbach, Acting Administrator, Human Nutrition Information Service, USDA
Dr. Robert Rizek, Director, Nutrition Monitoring Division, USDA
Dr. Susan Welsh, Director, Nutrition Education Division, Human Nutrition Information Service, USDA

2. Panel:
Dr. Audrey Tittle Cross, Former Human Nutrition Policy Coordinator, U.S. Department of Agriculture; Associate Clinical Professor, School of Public Health, Institute of Human Nutrition and Center for Population and Family Health, Columbia University, New York, New York

Dr. Marion Nestle, Former Staff Director for Nutrition Policy, Department of Health and Human Services; Professor and Chair, Department of Home Economics and Nutrition, New York University, New York, New York

Dr. Suzanne S. Harris, Former Deputy Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture, Washington, D.C.

Dr. Kenneth D. Fisher, Director, Life Sciences Research Office, Federation of American Societies for Experimental Biology, Bethesda, Maryland

3. Panel:
Dr. Patricia B. Swan, Professor and Associate Dean, Graduate School, University of Minnesota, representing nutrition, health, and scientific societies, Minneapolis, Minnesota

Ms. Agnes W. Hinton, Director, Nutrition Services, Bureau of Personal Health, Mississippi State Department of Health, representing the Association of State and Territorial Public Health Nutrition Directors, Jackson, Mississippi

Ms. Patricia Adrian, Chairman, Food Policy and Public Affairs Committee, National Cattlemen's Association, representing Coalition of food and agriculture organizations, Washington, D.C.

Thursday, September 21, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Subcommittee on Department
Operations, Research, and
Foreign Agriculture
Subcommittee on Science,
Research and Technology
(Committee on Science,
Space and Technology)
Joint Public Hearing
Review nutrition monitoring

Statements Submitted for the Record:

1. Hon. Charles Hatcher, Member of Congress from Georgia
2. Hon. Robert S. Walker, Member of Congress from Pennsylvania
3. Hon. Doug Walgren, Member of Congress from Pennsylvania
4. Hon. Bill Emerson, Member of Congress from Missouri
5. Hon. Sherwood L. Boehlert, Member of Congress from New York
6. Hon. Tom Lewis, Member of Congress from Florida

Mr. Hatcher, Chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, called the joint meeting with the Subcommittee on Department Operations, Research, and Foreign Agriculture, and the Subcommittee on Science, Research and Technology of the House Committee on Science, Space, and Technology, to order for the purpose of reviewing a comprehensive system to coordinate the nutrition monitoring activities of the federal government. Mr. Hatcher made brief opening comments as did Messrs. Brown, Walgren, Emerson, and Boehlert.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittees.

During the proceedings a recess was taken at 12:00 noon to enable Members to respond to a recorded vote on the House floor. At 12:35 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Saturday, September 23, 1989

(Sub) Committee: Livestock, Dairy, and Poultry

Public Field Hearing

met at 9:10 a.m. o'clock, in Room Noble Agricultural Research Center Theater, Oklahoma State University, Stillwater, Oklahoma

for the purpose of reviewing technological advancements and other measures leading to the complete eradication of brucellosis

The following Members were present:

Mr. Stenholm
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Stangeland
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Watkins
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Dan Waggoner, Subcommittee Staff Director
Carol Dubard, Minority Consultant

Witnesses:

1. Panel:

Dr. Billy G. Johnson, Associate Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C.

Dr. Norman F. Cheville, Research Leader, Pathology Research Unit, National Animal Disease Center, Ames, Iowa

2. Panel:

Dr. Robert L. Hartin, State Veterinarian and Director, Animal Industry Division, Oklahoma Department of Agriculture, Oklahoma City, Oklahoma

Dr. John W. Holcombe, Executive Director, Texas Animal Health Commission, Austin, Texas

Dr. Taylor H. Woods, Director, Arkansas Livestock and Poultry Commission, Little Rock, Arkansas

3. Panel:

Dr. David E. Shaw, President, IDEXX Corporation, Portland, Maine
Acc. by: Dr. Erwin F. Workman, Jr., Vice President, Research and Development, IDEXX Corporation, Portland, Maine

Dr. Leslie Garry Adams, Department of Veterinary Pathology, Texas A&M University, College Station, Texas

Dr. Joseph W. Alexander, Dean, College of Veterinary Medicine, Oklahoma State University, Stillwater, Oklahoma

Dr. Anthony Confer, Professor and Head, Department of Veterinary Medicine, Oklahoma State University, Stillwater, Oklahoma

Dr. Ocleris Simpson, Dean, Research and Extension, Langston University, Langston, Oklahoma

4. Panel

Mr. James B. Owen, First Vice President, Texas and Southwestern Cattle Raisers Association, Tyler, Texas

Mr. Randy Ward, President, Oklahoma Cattlemen's Association, McAlester, Oklahoma

Mr. William (Bill) E. Bugg, Hennessey, Oklahoma, representing the Associated Milk Producers, Inc.

Saturday, September 23, 1989
Subcommittee on Livestock,
Dairy, and Poultry
Public Field Hearing
Brucellosis Eradication

Witnesses Continued:

Mr. John L. McCroskey, Stillwater, Oklahoma, representing the Associated Milk Producers, Inc.

Mr. Kenneth W. Sherrill, McAlester Union Livestock Market, McAlester, Oklahoma

Chairman Stenholm called the hearing to order for the purpose of reviewing technological advancements and other measures leading to the complete eradication of brucellosis. The Chairman made opening comments on the need to look at the disease and program, as did Messrs. Stangeland and Watkins.

The witnesses listed on pages 2 and 3 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members.

At 12:15 p.m. the meeting was adjourned, subject to the call of the Chair.

Dan Waggoner

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, September 26, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing grain reserve policy in preparation for the 1990 farm bill

The following Members were present:

Mr.	Glickman	Mr.	Marlenee	Mr.
Mr.	Johnson	Mr.	Roberts	Mr.
Mr.	English	Mr.	Emerson	Mr.
Mr.	Penny	Mr.	Smith	Mr.
Mr.	Nagle	Mr.	Schuette	Mr.
Mr.	Sarpalius	Mr.	Grandy	Mr.
Mr.	Jontz	Mr.		Mr.
Mr.	Campbell	Mr.		Mr.
Ms	Long	Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
		Mr.		Mr.
		Mr.		Mr.
		Mr.		Mr.
		Mr.		Mr.
		Mr.		Mr.

Staff present:
Vernie Hubert, Majority Associate Counsel
John Hogan, Minority Counsel
Allie Devine, Minority Associate Counsel
Greg Frazier, Subcommittee Staff Director
Anne Keys, Staff Assistant
Glenda Temple, Clerk
Cliff Humphrey, Minority Consultant
Jim Davis, Press Secretary
Howard Conley, Staff Economist
Joe Dugan, Assistant Press Secretary

Witnesses:

1. Mr. Richard Hancock, Chief, Basic Foods Service, Commodities and Trade Division, Food and Agriculture Organization of the United Nations, Rome, Italy

2. Panel:

   Mr. Dennis T. Avery, Senior Fellow, Hudson Institute, Indianapolis, Indiana

   Dr. John A. Schnittker, Schnittker and Associates, Washington, D.C.

   Mr. Charles L. Sykes, Assistant Executive Director, CARE, Washington, D.C.

   Dr. William H. Meyers, Professor of Economics, Center for Agriculture and Rural Development, Iowa State University, Ames, Iowa

   Dr. Peter G. Helmberger, Professor of Agricultural Economics, University of Wisconsin, Madison, Wisconsin

Statements Submitted for the Record:

1. Hon. Dan Glickman, Member of Congress from Kansas

Monday, July 31, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Hearing
Review of grain reserve policy
in preparation for 1990 farm
bill

Mr. Glickman, Chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains, called the meeting order for the purpose of beginning a series of hearings to review the issues surrounding grain reserves to provide an understanding of its implications regarding food aid and farmer-owned reserves. Mr. Glickman made opening comments, as did Messrs. Emerson, Grandy, Roberts and Schuette.

The witnesses listed on page 2 were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings the following special introduction was made: Mr. Roberts introduced Mr. Schnittker. At 12:00 noon the meeting was adjourned to reconvene, subject to the call of the chair.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date September 26, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 9:35 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing state and private forestry

The following Members were present:

Mr. Olin	Mr. Morrison	Mr.
Mr. Stallings	Mr. Marlenee	Mr.
Mr. Jontz	Mr. Smith	Mr.
Mr. Johnson	Mr. Herger	Mr.
Mr. Harris	Mr.	Mr.
Mr. Volkmer	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Timothy P. DeCoster, Subcommittee Staff Director
James R. Lyons, Staff Assistant
Allison Biggs, Minority Consultant
Clifford Humphrey, Minority Consultant
Grace McGovern, Staff Assistant

Witnesses:

1. Mr. Allan J. West, Deputy Chief, State and Private Forestry, Forest Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Anthony F. Dorrell, Chief, Cooperative Forestry, Forest Service, U.S. Department of Agriculture, Washington, D.C.
   Dr. David Darr, Branch Chief, Demand, Price and Trade Analysis, Forest Service, U.S. Department of Agriculture

2. Panel

   Mr. James B. Roberts, President, National Association of State Foresters and Maryland State Forester, Annapolis, Maryland

   Mr. Gerald A. Ross, Missouri State Forester, Jefferson City, Missouri

   Mr. C. W. Moody, Alabama State Forester, Montgomery, Alabama

   Mr. James A. Stearns, Washington State Forester, Olympia, Washington

3. Mr. Gerald J. Gray, Director of Resource Policy, American Forestry Association, Washington, D.C.

Tuesday, September 26, 1989
Subcommittee on Forests,
Family Farms, and Energy
Public Hearing
Review of state and private
forestry

Chairman Volkmer made an opening statement and called the hearing to order for the purpose of reviewing state and private foresty. Congressmen Morrison and Smith also made opening statements. The witnesses then proceeded to give their testimony in the order in which they appear on page 2 of these minutes. Following their presentations the witnesses were questioned by the Members of the Subcommittee.

The hearing was adjourned at 12:00 p.m., subject to the call of the chair.

Grace McGovern

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, September 27, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:10 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the Federal Agricultural Mortgage

Corporation (Farmer Mac)

The following Members were present:

Mr.	English, Chrm.	Mr.	Coleman	Mr.
Mr.	Penny	Mr.	Morrison	Mr.
Mr.	Stallings	Mr.	Gunderson	Mr.
Mr.	Nagle	Mr.	Holloway	Mr.
Mr.	Staggers	Mr.		Mr.
Ms.	Long	Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
Mr.		Mr.		Mr.
				Mr.
				Mr.
				Mr.
				Mr.

Staff present:

Fred Clark, Majority Associate Counsel
John Hogan, Minority Consultant
Allie Devine, Minority Associate Counsel
Bill Cherry, Subcommittee Staff Director
Jim McDonald, Subcommittee Consultant
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk
Jim Lyons, Staff Assistant
Jim Davis, Press Secretary

Witnesses:

1. Mr. Henry D. Edelman, President and Chief Executive Officer, Federal Agricultural Mortgage Corporation (Farmer Mac), Washington, D.C.
   Acc. by: Mr. Jack Dahl, Chairman, Farmer Mac, Washington, D.C.
   Mr. Ken Graff, President, Central Coast Farm Credit Services
   Mr. Franklyn F. Schafer, Senior Vice President, Farm Credit Bank, Springfield, Massachusetts

2. Panel:

   Mr. Michael Grove, President, First National Bank, White Sulphur Spring, Montana, representing the American Bankers Association

   Mr. Jack W. Dickey, President, First National Bank of Thomas, Oklahoma, and Chairman, Agriculture-Rural America Committee, Independent Bankers Association of America, Washington, D.C.

3. Panel:

   Ms. Dorothy J. Acosta, Chairperson, Secondary Market Task Force, Farm Credit Administration, McLean, Virginia

   Mr. John W. Harman, Director, Food and Agriculture Issues, Resources, Community, and Economic Development Division, General Accounting Office, Washington, D.C.

   Mr. Donald George Coonley, Chief National Bank Examiner, Office of the Comptroller of the Currency, Department of the Treasury, Washington, D.C.

4. Panel:

   Mr. James A. Parrish, Vice President and Associate Director, Moody's Investors Service, New York, New York

   Mr. Frederick R. Medero, Vice President, Asset and Government Finance, Kidder, Peabody & Co., Inc., New York, New York

Statements Submitted for the Record:

1. Hon. Glenn English, Member of Congress from Oklahoma

2. Hon. Richard Stallings, Member of Congress from Idaho

Wednesday, September 27, 1989
Subcommittee on Conservation,
Credit, and Rural Development
Public Hearing
Review of Federal Agricultural
Mortgage Corp. (Farmer Mac)

Chairman English called the meeting to order for the purpose cf reviewing the underwriting standards of the Federal Agricultural Mortgage Corporation (Farmer Mac). Mr. English made brief opening comments, as did Mr. Coleman, the Ranking Minority Member of the Subcommittee.

The witnesses listed on page 2 of these minutes were recognized for their prepared statements. Following their presentations, the witnesses were questioned by the Members of the Subcommittee. Without objection, Members were given permission to submit additional questions in writing for the record.

During the proceedings a recess was taken at 12:10 p.m. to enable Members to respond to a recorded vote on the House floor. At 1:20 p.m. the meeting was adjourned, to reconvene subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, October 3, 1989

(Sub) Committee s: Department Operations, Research, and Foreign Agriculture and Natural Resources, Agriculture Research and Environment Joint Public Hearing

met at 9:35 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing H.R. 2734, the National Ground Water Research Act

The following Members were present:

Agriculture	Science, Space, and Technology	
Mr. Brown	Mr. Scheuer	Mr.
Mr. Stenholm	Mr. Brown	Mr.
Mr. Olin	Mr. Price	Mr.
Mr. Volkmer	Mr. Schneider	Mr.
Mr. Jontz	Mr. Smith (Tx.)	Mr.
Mr. Roberts	Mr.	Mr.
Mr. Grandy	Mr.	Mr.
Mr. Walsh	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Agriculture
John E. Hogan
Alice Devine
William A. Stiles, Jr.
John J. Aguirre
Glenda Temple
James R. Lyons
Jim Davis

Science, Space, and Technology
Michael Rodemeyer
Wesley P. Warren
John Baker

Witnesses:

1. Panel:

Ms. Rebecca W. Hanmer, Acting Assistant Administrator for Water, U.S. Environmental Protection Agency, Washington, D.C.

Dr. John N. Fischer, Jr., Acting Associate Director, United States Geological Survey, Washington, D.C.

Dr. Harry Mussman, Deputy Assistant Secretary for Science and Education, U.S. Department of Agriculture, Washington, D.C.
Acc. by: Dr. John A. Miranowski, Director, Resources and Technology Division, Economic Research Service, USDA

2. Panel:

Mr. Dennis A. Rapp, Deputy Commissioner, Natural Resources and Environmental Programs, New York State Department of Agriculture and Markets, Albany, New York

Dr. Dan Smyly, Director, Division of Chemistry, Florida Department of Agriculture and Consumer Services, Tallahassee, Florida, representing Mr. Doyle Conner, Florida Commissioner of Agriculture and Consumer Services

Dr. Charles M. Benbrook, Executive Director of the Board of Agriculture, National Research Council, Washington, D.C.

3. Panel:

Mr. Mark A. Maslyn, Assistant Director, National Affairs Division, American Farm Bureau Federation, Washington, D.C.

Ms. Velma M. Smith, Director, Environmental Policy, Ground Water Protection Project, Environmental Policy Institute, Washington, D.C.

Ms. Judy Campbell Bird, Director, Ground Water Program, Environmental and Energy Study Institute, Washington, D.C.

Statements Submitted for the Record:

1. Hon. George E. Brown, Jr., Member of Congress from California

2. Hon. Arlan Stangeland, Member of Congress from Minnesota

Tuesday, October 3, 1989
Department Operations,
Research, and Foreign
Agriculture Subcommittee
of Committee on Agriculture
Natural Resources, Agriculture
Research, and Environment
Subcommittee of Committee on
Science, Space, and Technology
Joint Public Hearing
National Ground Water Research
Act - H.R. 2734

Mr. Scheuer, Chairman of the Subcommittee on Natural Resources, Agriculture Research, and Environment, called the joint meeting to order for the purpose of (1) reviewing the need for a better understanding of ground water resources and ground water contamination, including the adequacy of federal research and technical support which is currently being provided to state and local governments, and (2) examining the ability of H.R. 2734 to improve state management of ground water and provide the necessary information that the states require to move beyond assessment and cleanup to prevention and source reduction of contamination.

Chairman Brown of the Subcommittee on Department Operations, Research, and Foreign Agriculture, assisted with the chairing responsibilities. Chairmen Scheuer and Brown made opening comments, as did Messrs. Roberts, Volkmer, Grandy, Jontz, and Smith of Texas.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittees.

At 12:12 p.m. the meeting was recessed to enable Members to respond to a recorded vote on the House floor, and at 1:25 p.m. the joint hearing was adjourned, subject to the call of the respective Chairs.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, October 4, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition
Public Hearing

met at 9:30 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing H.R. 3387, the Pecan Promotion and Research Act of 1989

The following Members were present:

Mr. Hatcher	Mr. Emerson	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
Dan Brinza, Counsel
Fred Clark, Majority Associate Counsel
Allie Devine, Minority Associate Counsel
Julia M. Paradis, Subcommittee Staff Director
Dean Mitchell, Staff Assistant
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk

Witnesses:

1. Mr. Daniel D. Haley, Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Kenneth C. Clayton, Deputy Administrator for Marketing Programs, Agricultural Marketing Service, USDA

   Mr. Robert Keeney, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, USDA

2. Panel:

   Mr. Bucky Geer, Vice President, Federated Pecan Growers of the United States, Albany, Georgia

   Mr. Errol John Dietze, President, Texas Pecan Growers, Cuero, Texas

3. Mr. J. W. Christiansen, Jr., Vice President, Nut Tree Pecan Company, Albany, Georgia, on behalf of the National Pecan Shellers Association

Wednesday, October 4, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Public Hearing
Pecan Promotion and Research
Act - H.R. 3387

Mr. Hatcher, Chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, called the meeting to order for the purpose of reviewing H.R. 3387, a bill to provide for the establishment of a coordinated program of promotion and research designed to strengthen the position of the pecan industry in the marketplace, to maintain and expand foreign and domestic markets and uses for improved and native pecans and pecan products, and for other purposes. Mr. Hatcher made brief opening comments as did Mr. Emerson, the Ranking Minority Member of the Subcommittee.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 10:20 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple
Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, October 12, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing grain reserve policy in preparation for the 1990 farm bill

The following Members were present:

Mr. Glickman	Mr. Marlenee	Mr.	
Mr. Johnson	Mr. Roberts	Mr.	
Mr. English	Mr. Emerson	Mr.	
Mr. Volkmer	Mr. Smith	Mr.	
Mr. Penny	Mr. Schuette	Mr.	
Mr. Nagle	Mr. Grandy	Mr.	
Mr. Sarpalius	Mr.	Mr.	
Mr. Jontz	Mr.	Mr.	
Mr. Dyson	Mr.	Mr.	
Mr. Long	Mr.	Mr.	
Mr. de la Garza	Mr.	Mr.	
Mr. ex officio	Mr.	Mr.	
Mr.	Mr.	Mr.	
		Mr.	
		Mr.	
		Mr.	
		Mr.	

Staff present:

John E. Hogan, Minority Counsel
Vernie Hubert, Majority Associate Counsel
Allie Devine, Minority Associate Counsel
Greg Frazier, Subcommittee Staff Director
Cliff Humphrey, Minority Consultant
Anne C. Keys, Staff Assistant
Glenda Temple, Clerk
Jim Davis, Press Secretary

Witnesses:

1. Hon. Byron L. Dorgan, Member of Congress from North Dakota

2. Panel:

   Dr. John W. Mellor, Director, International Food Policy Research Institute, Washington, D.C.

   Mr. Don Reeves, Agricultural Policy Analyst, Bread for the World, Washington, D.C.
   Acc. by: Ms. Amanda Wolf, Research Associate

   Mr. Rodney E. Leonard, Executive Director, Community and Nutrition Institute, Washington, D.C.

3. Panel:

   Mr. Ivan W. Wyatt, President, Kansas Farmers Union, Clements, Kansas

   Mr. Harry Pearson, President, Indiana Farm Bureau, Inc., Hartford City, Indiana

   Mr. David Lyons, Vice President, Louis Dreyfus Corporation, representing National Grain Trade Council, Washington, D.C.

   Mr. Kendall W. Keith, Executive Vice President, National Grain and Feed Association, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Dan Glickman, Member of Congress from Kansas

Thursday, October 12, 1989
Subcommittee on Wheat,
Soybeans, and Feed Grains
Public Hearing
Review of grain reserve policy
in preparation for 1990 farm
bill

Mr. Glickman, Chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains, called the meeting to order for the purpose of continuing to review the issues surrounding grain reserves to provide an understanding of its implications regarding food aid and farmer-owned reserves.

The witnesses listed on page 2 were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 12:20 p.m. the meeting was adjourned to reconvene, subject to the call of the chair.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Monday, October 16, 1989

(Sub) Committee: Tobacco and Peanuts

Public Field Hearing

met at 9:05 a.m. o'clock, in Room Wiregrass Experiment Station, Headland, Alabama

for the purpose of reviewing peanuts issues relating to formulation of the 1990 farm bill

The following Members were present:

Mr. Rose
Mr. Lancaster
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Dickinson
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Heidi Pender, Subcommittee Counsel

Witnesses:

1. Mr. James E. Mobley, Chairman, National Peanut Growers Group, Dothan, Alabama

2. Mr. Larry Ford, President, Florida Peanut Producers Association, Malone, Florida

3. Mr. Jesse J. Anderson, Peanut Producer, New Brockton, Alabama

4. Mr. Michael A. Stimpert, Executive Vice President, Golden Peanut Company, Atlanta, Georgia, representing the Southeastern Peanut Association

5. Mr. Lester H. Killebrew, President, Henry Farm Center, Inc., Abbeville, Alabama

6. Mr. Alan Miller, Extension Economist, Farm Business Management, Wiregrass Farm Analysis Association, Headland, Alabama

7. Mr. Andrew J. Singletary, Singletary Farms, and Chairman, Tri-State Blue Ribbon Task Force, Blakely, Georgia

8. Mr. John M. "Bubba" Trotman, State Director, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Montgomery, Alabama

9. Mr. Jeff Crawford, Peanut Farmer, Greenwood, Florida, representing the Florida Farm Bureau

10. Mr. Henry W. Ivey, Superintendent, Wiregrass Substation, Headland, Alabama, representing Auburn University

Monday, October 16, 1989
Subcommittee on Tobacco and
Peanuts
Public Field Hearing
Review peanut issues relating
to formulation of 1990 farm
bill

Chairman Rose called the meeting to order for the purpose of reviewing a number of peanut issues relating to formulation of the 1990 farm bill.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 10:50 a.m. the meeting was adjourned, subject to the call of the Chair.

Heidi Pender

Heidi Pender

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, October 17, 1989

(Sub) Committee: Full

Public Hearing

met at 10:05 a.m. o'clock, in Room 1300 Longworth House Office Building.

for the purpose of reviewing issues associated with seafood safety and inspection

The following Members were present:

Mr. de la Garza	Mr. Johnson	Mr. Madigan
Mr. Brown	Mr. Harris	Mr. Coleman
Mr. English	Mr. Espy	Mr. Marlenee
Mr. Huckaby	Mr. Sarpalius	Mr. Hopkins
Mr. Glickman	Ms. Long	Mr. Stangeland
Mr. Stenholm	Mr. Condit	Mr. Morrison
Mr. Volkmer	Mr. Dyson	Mr. Gunderson
Mr. Staggers	Mr. Lancaster	Mr. Lewis
Mr. Olin	Mr.	Mr. Smith
Mr. Penny	Mr.	Mr. Schuette
Mr. Stallings	Mr.	Mr. Herger
Mr. Nagle	Mr.	Mr. Holloway
Mr. Jontz	Mr.	Mr. Walsh
		Mr. Grant
		Mr.
		Mr.
		Mr.

Staff present:

Bert R. Peña, Staff Director
Dan Brinza, Counsel
John Hogan, Minority Counsel
Vernie Hubert, Majority Associate Counsel
Allie Devine, Minority Associate Counsel
Glenda Temple, Clerk
Jim Lyons, Staff Assistant
Joe Dugan, Assistant Press Secretary
Jim Davis, Press Secretary

Witnesses:

1. Hon. Dan Glickman, Member of Congress from Kansas

2. Hon. Byron L. Dorgan, Member of Congress from North Dakota

3. Panel:

   Ms. Jo Ann Smith, Assistant Secretary for Marketing and Inspection Services, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Dr. Lester Crawford, Administrator, Food Safety and Inspection Service, USDA

   Dr. Frank E. Young, Commissioner, Food and Drug Administration, Public Health Service, Department of Health and Human Services, Washington, D.C.
   Acc. by: Mr. George P. Hoskin, Senior Fisheries Specialist, Center for Food Safety and Applied Nutrition, FDA

   Mr. James W. Brennan, Office of the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C.
   Acc. by: Mr. Thomas J. Billy, Office of Trade and Industry Services, National Oceanic and Atmospheric Administration, USDC

4. Panel:

   Ms. Ellen Haas, Executive Director, Public Voice for Food and Health Policy, Washington, D.C.

   Mr. Lee J. Weddig, Executive Vice President, National Fisheries Institute, Washington, D.C.

Statements Submitted for the Record:

1. Hon. E (Kika) de la Garza, Member of Congress from Texas

2. Hon. Charles W. Stenholm, Member of Congress from Texas

3. Hon. Bill Grant, Member of Congress from Florida

4. Mr. C. Manly Molpus, President and Chief Executive Officer, American Meat Institute, Box 3556, Washington, D.C. 20007

Tuesday, October 17, 1989
Full Committee
Public Hearing
Review issues associated with
seafood safety and inspection

Chairman de la Garza called the meeting to order for the purpose of providing the Committee on Agriculture with an overview of current seafood safety and inspection issues. Mr. de la Garza made opening comments as did Messrs. Morrison, Stenholm, Grant, Huckaby, and Lewis.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Committee.

Chairman de la Garza introduced the newest Member of the Committee -- Mr. Condit of California -- and the Committee greeted its new Member.

At 1:30 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, October 17, 1989

(Sub) Committee: Department Operations, Research, and Foreign Agriculture and Agricultural Research and General Legislation
Joint Public Hearing

met at 3:05 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing a report of the National Academy of Sciences on "Investing in Agriculture"

The following Members were present:

House	Senate	
Mr. Brown	Mr. Daschle	Mr.
Mr. Stenholm	Mr.	Mr.
Mr. Olin	Mr.	Mr.
Mr. Volkmer	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Mr. Roberts	Mr.	Mr.
Mr. Walsh	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

House	Senate
John E. Hogan, Minority Counsel	Mary Byrne, Hearing Clerk
Allie Devine, Minority Associate Counsel	Kathleen Merrigan, Professional Staff Member
William A. Stiles, Jr., Subc., Staff Director	
John J. Aguirre, Minority Consultant	
Glenda Temple, Clerk	
Anita Brown, Staff Assistant	

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Witnesses:

1. Panel:

   Dr. Robert L. Thompson, Dean of Agriculture, Purdue University, West Lafayette, Indiana, and Member, Board on Agriculture of the National Research Council

   Dr. Robert M. Goodman, Executive Vice President for Research and Development, Calgene, Inc., Davis, California

2. Panel:

   Dr. Richard E. Stuckey, Director, National Association of Wheat Growers Foundation, Washington, D.C.

   Dr. Andrew Jordan, Director of Technical Services, National Cotton Council of America, Memphis, Tennessee

   Mr. James Martin, Chairman, Research and Education Committee, National Cattlemen's Association, Washington, D.C.

Statements Submitted for the Record:

1. Hon. George E. Brown, Jr., Member of Congress from California

2. Mr. Theodore L. Hullar, Chairman, National Research Council, 2101 Constitution Avenue, Washington, D.C. 20418

Tuesday, October 17, 1989
Department Operations,
Research, and Foreign
Agriculture Subcommittee
of the House Committee
on Agriculture
Agricultural Research and
General Legislation
Subcommittee of the Senate
Committee on Agriculture,
Nutrition, and Forestry
Joint Public Hearing
Review report of National
Academy of Sciences on
"Investing in Agriculture"

Mr. Brown, Chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture, called the joint meeting to order for the purpose of reviewing a report of the National Academy of Sciences on ""Investing in Agriculture" which makes the case for a major increase in agricultural research funding. In addition to opening comments of Mr. Brown, opening remarks were made by Messrs. Roberts, Jontz, and Walsh. Senator Daschle, Chairman of the Subcommittee on Agricultural Research and General Legislation, made an opening statement on behalf of the Senate Committee.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittees.

During the proceedings one recess was taken at 3:12 p.m. to enable Members to respond to a recorded vote on the House floor, and at 4:50 p.m. the joint hearing was adjourned, subject to the call of the respective Chairs.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, October 19, 1989

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Hearing

met at 9:40 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing proposals to amend the Federal Insecticide, Fungicide, and Rodenticide Act, including H.R. 3292 and H.R. 3153

The following Members were present:

Mr. Brown	Mr. Roberts	Mr.
Mr. Stenholm	Mr. Coleman	Mr.
Mr. Glickman	Mr. Morrison	Mr.
Mr. Hatcher	Mr. Grandy	Mr.
Mr. Olin	Mr. Walsh	Mr.
Mr. Volkmer	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Vernie Hubert, Associate Counsel
John E. Hogan, Minority Counsel
Allie Devine, Minority Associate Counsel
William A. Stiles, Jr., Subcommittee Staff Director
John Aguirre, Minority Consultant
Glenda Temple, Clerk
Jim Davis, Press Secretary
Jim Lyons, Staff Assistant
William E. O'Conner, Jr., Assistant Minority Staff Director

Witnesses:

1. Mr. Jay J. Vroom, Executive Vice President, National Agriculture Chemicals Association, Washington, D.C.

2. Hon. Paul E. Tsongas, on behalf of the Humane Society of the United States, Washington, D.C., and the Massachusetts Society for the Prevention of Cruelty to Animals, Boston, Massachusetts

3. Mr. Stephen Kellner, Vice President, Legal Affairs, Chemical Specialties Manufacturing Association, Washington, D.C.

4. Panel:
Mr. Warren E. Stickle, President, Chemical Producers and Distributors Association, Washington, D.C.

Mr. Rusty Griffin, President, Griffin Corporation, Valdosta, Georgia

Mr. Greg Duerksen, Vice President for Marketing and Development, Terra International, Inc., Sioux City, Iowa

Mr. Richard Miller, Vice President, Prentiss Drug and Chemical Company, Floral Park, New York

5. Panel:
Ms. Marueen K. Hinkle, Director of Agricultural Policy, National Audubon Society, Washington, D.C.

Mr. Jay Feldman, National Coordinator, National Coalition Against the Misuse of Pesticides, Washington, D.C.

Mr. Rick Hind, Environmental Program Director, U.S. Public Interest Research Group, Washington, D.C.

Ms. Anne W. Bloom, Staff Attorney, Public Citizen, Washington, D.C.

Mr. Walter E. Grazer, Policy Advisor, Food Agriculture and Rural Development, U.S. Catholic Conference, Washington, D.C.

6. Dr. Dennis R. Heldman, Executive Vice President for Scientific Affairs, National Food Processors Association, Washington, D.C.

7. Panel:
Mr. Mark Maslyn, Assistant Director, National Affairs Division, American Farm Bureau Federation, Washington, D.C.

Mr. Reggie Wyckoff, President, National Association of Wheat Growers, Washington, D.C.

--MORE--

Thursday, October 19, 1989
Subcommittee on Department
Operations, Research, and
Foreign Agriculture
Public Hearing
Proposals to amend FIFRA
H.R. 3292; H.R. 3153

Witnesses Continued:

Ms. Claudia R. Fuquay, Director of Congressional Relations, United Fresh Fruits and Vegetables Association, Washington, D.C.

Acc. by: Mr. Daniel S. Botts, Manager, Environmental and Pest Management Division, Florida Fruit and Vegetable Association, Orlando, Florida

Mr. Patrick J. O'Donnell, General Manager, National Grape Cooperative Association, Inc., Westfield, New York, on behalf of the National Council of Farmer Cooperatives, Washington, D.C.

8. Dr. Charles M. Benbrook, Executive Director, Board on Agriculture, National Academy of Sciences, Washington, D.C.

9. Ms. Sherri G. Zedd, Vice President, Congressional Affairs, American Wood Preservers Institute, Vienna, Virginia

Statements Submitted for the Record:

1. Hon. George E. Brown, Jr., Member of Congress from California

2. Hon. Charles W. Stenholm, Member of Congress from Texas

3. Hon. Fred Grandy, Member of Congress from Iowa

4. Ms. Janet S. Hathaway, Senior Project Attorney, National Resources Defense Council, 1350 New York Avenue, N.W., Washington, D.C. 20005

5. Hon. Pat Roberts, Member of Congress from Kansas

Thursday, October 19, 1989
Subcommittee on Department
Operations, Research, and
Foreign Agriculture
Public Hearing
Proposals to amend FIFRA
H.R. 3292; H.R. 3153

Mr. Brown, Chairman of the Subcommittee on Department Operations, Research, and Foreign Agriculture, called the meeting to order for the purpose of reviewing proposals to amend the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), including H.R. 3292, the Food Safety Assurance Act of 1989, and H.R. 3153, the Pesticide Regulatory Reform Amendments of 1989. In addition to opening comments of Mr. Brown, opening remarks were made by Messrs. de la Garza, Roberts, Olin, and Morrison.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittees.

Members were given permission to submit additional questions to the witnesses for written responses for the record, and to submit miscellaneous materials.

During the proceedings recesses were taken at 12:55 and 3:20 p.m. to enable Members to respond to recorded votes on the House floor. At 4:30 p.m. the hearing was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, October 26, 1989

(Sub) Committee: Full

Business Meeting

met at 9:50 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 1011, Natural Resources Disaster Recovery Act of 1989; H.R. 2144, the Urban and Community Forestry Act of 1989; and H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act

The following Members were present:

Mr. de la Garza
Mr. Brown
Mr. English
Mr. Huckaby
Mr. Glickman
Mr. Stenholm
Mr. Volkmer
Mr. Hatcher
Mr. Tallon
Mr. Staggers
Mr. Olin
Mr. Penny
Mr. Stallings

Mr. Nagle
Mr. Jontz
Mr. Johnson
Mr. Harris
Mr. Campbell
Mr. Espy
Mr. Sarpalius
Ms Long
Mr. Condit
Mr. Lancaster
Mr.
Mr.
Mr.

Mr. Madigan
Mr. Coleman
Mr. Marlenee
Mr. Hopkins
Mr. Stangeland
Mr. Roberts
Mr. Emerson
Mr. Morrison
Mr. Smith
Mr. Combest
Mr. Schuette
Mr. Grandy
Mr. Herger
Mr. Holloway
Mr. Walsh
Mr. Grant
Mr.

Staff present:

Bert R. Peña
Dan Brinza
John E. Hogan
Vernie Hubert
Joe Muldoon
Allie Devine
Glenda Temple
Tim DeCoster
Greg Frazier

Allison Biggs
Cliff Humphrey
Jim Lyons
Jim Davis
Anne Keys
Francie Monaghan
Howard Conley
Chuck Hilty
William E. O'Conner, Jr.

Witnesses:

Present from the Administration to respond to questions on the forestry bills:

Mr. Al Schacht, Associate Deputy Chief for State and Private Forestry, Forest Service, USDA

Thursday, October 26, 1989
Full Committee
Business Meeting
Natural Resources Disaster
Recovery Act - H.R. 1011
Urban and Community Forestry
Act - H.R. 2144
Soybean Promotion, Research,
and Consumer Information
Act - H.R. 2209

Action Taken:

-- By voice vote H.R. 1011, as amended, ordered reported to House in the presence of a quorum.

-- By voice vote H.R. 2144, as amended, ordered reported to House in the presence of a quorum.

-- Without objection Glickman motion to consider his amendment in the nature of a substitute as original text for purposes of amendment to H.R. 2209, and that the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition be discharged from further consideration of the bill approved.

-- By voice vote Huckaby amendment to allow board to directly enter into contracts or agreements for research and promotion activities agreed to.

-- Without objection Lancaster report language approved for inclusion in Committee report.

-- Without objection de la Garza amendment to change time frame for issuing regulations agreed to.

-- By voice vote H.R. 2209, as amended, ordered reported to House in the presence of a quorum.

Chairman de la Garza called the meeting to order for the purpose of marking up three bills scheduled for the Committee's consideration.

Mr. Combest advised the Committee that it was Mr. Stenholm's birthday. In addition, Chairman de la Garza advised that Mr. Stenholm had been appointed to serve as Deputy Whip for the 101st Congress, and the Committee applauded Mr. Stenholm.

Thursday, October 26, 1989
Full Committee
Business Meeting
Natural Resources Disaster
Recovery Act - H.R. 1011
Urban and Community Forestry
Act - H.R. 2144
Soybean Promotion, Research,
and Consumer Information
Act - H.R. 2209

The Chairman recognized Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy, for the Subcommittee's report on H.R. 1011, a bill to establish a National Commission on Natural Resources Disasters. (See attached copy of committee print with Subcommittee amendments, brief explanation, and section-by-section analysis.) Mr. Morrison, the Ranking Minority Member of the Subcommittee, also spoke in favor of the legislation.

Discussion occurred and Mr. Volkmer moved that H.R. 1011, as amended, be ordered reported to the House with the recommendation that it do pass. By a voice vote the motion was agreed to in the presence of a quorum (30 Members present and voting). Mr. Herger, the author of the legislation, thanked the Members for their support and assistance.

Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy, was recognized to explain the Subcommittee's action on H.R. 2144, the Urban and Community Forestry Act. (See attached copy of committee print with Subcommittee amendments, brief explanation and section-by-section analysis. Mr. Morrison, the Ranking Minority Member of the Subcommittee, and Mr. Jontz, the author of the legislation, also spoke in favor of the bill.

Following discussion, Mr. Volkmer moved that H.R. 2144, as amended, be ordered reported to the House with the recommendation that it do pass. By a voice vote the motion was agreed to in the presence of a quorum (31 Members present and voting).

Mr. Glickman, Chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains, was recognized to explain the provisions of H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act. (See attached copy of bill, as reported by the Subcommittee, brief explanation, and section-by-section analysis.)

Lengthy discussion occurred. Mr. Glickman offered the attached amendment in the nature of a substitute. He moved that the substitute amendment be considered as original text for purposes of amendment and that the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition be discharged from further consideration of the legislation. There was no objection.

Thursday, October 26, 1989
Full Committee
Business Meeting
Natural Resources Disaster
Recovery Act - H.R. 1011
Urban and Community Forestry
Act - H.R. 2144
Soybean Promotion, Research,
and Consumer Information
Act - H.R. 2209

Mr. Huckaby offered the attached amendment to allow the board to directly enter into contracts or agreements for research and promotion activities. Discussion occurred and by a voice vote the Huckaby amendment was agreed to.

Chairman de la Garza stated that prior to the final consideration by the House the Committee should look at the possibility of adding sunset provisions and making provisions to enable the Committee to provide more oversight over such promotion boards. Mr. Stenholm stated that perhaps the various commodity subcommittees and the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition should hold hearings regarding changes in the check-off provisions to see if certain areas could be standardized. The Chairman concurred.

Mr. Lancaster offered the attached report language and without objection the proposal was approved for inclusion in the Committee report.

Chairman de la Garza suggested changing the time frame for issuing regulations from 120 days to 180 days in section 4 to accommodate a suggestion of the Department of Agriculture. There was no objection.

Mr. English reported on the status of rural development legislation. He advised that a bill should be ready for introduction next week, and that he planned to hold hearings and proceed to markup as soon as possible thereafter.

Mr. Glickman moved that H.R. 2209, as amended, be ordered favorably reported to the House. By a voice vote the motion was agreed to in the presence of a quroum (26 Members present and voting).

Staff was given permission to make any necessary clerical and technical changes in the bills ordered reported. The Chairman thanked the Subcommittee Chairmen and Ranking Minority Members for their assistance in working out differences on bills to facilitate their consideration by the full Committee.

Thursday, October 26, 1989
Full Committee
Business Meeting
Natural Resources Disaster
Recovery Act - H.R. 1011
Urban and Community Forestry
Act - H.R. 2144
Soybean Promotion, Research,
and Consumer Information
Act - H.R. 2209

At 11:15 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

H.R. 1011

AS REPORTED BY THE SUBCOMMITTEE ON

FORESTS, FAMILY FARMS AND ENERGY

Section 1. This Act may be cited as the "Natural Resources Disaster Recovery Act of 1989".

TITLE I--NATIONAL COMMISSION ON NATURAL RESOURCES DISASTERS.

Sec. 101. FINDINGS AND POLICY.

(a) Findings.--Congress finds that--

(1) the natural fire disasters that occurred in 1987 and 1988 in Western and Southeastern States burned nearly seven and one-half million acres of Federal, State, and private land;

(2) these fires have altered the ability of Federal Government agencies to effectively manage the lands for timber production, fish and wildlife habitation, and recreation for future use by the American public; and

(3) the communities in and surrounding the areas affected by the fires have suffered economic and social losses.

(b) Policy.--It is hereby declared to be the policy of Congress to respond to these disasters and prepare for potential disasters by reviewing the financial and cultural results to the affected communities and by adopting such policies as are needed to ensure an effective and efficient recovery.

Sec. 102. NATIONAL COMMISSION ON NATURAL RESOURCES DISASTERS.

(a) Establishment.--There is hereby established a National

Commission on Natural Resources Disasters (hereafter referred to as the "Commission") which shall study the effects of fires caused by natural disasters or other causes resulting in disastrous fires and make recommendations concerning the steps necessary for a smooth and timely transition from the loss of natural resources due to such fires.

(b) Composition.--The Commission shall be composed of twenty-five members to be appointed by the Secretary of Agriculture, hereinafter referred to as the "Secretary", including Federal, State, and local officials, timber industry representatives, nonindustrial private forest landowners, conservationists, and community leaders. No more than five members shall be appointed from any one State. Not fewer than twenty members shall be appointed by the Secretary from nominations submitted by the following Members of Congress (after consultation with other Members of Congress who sit on the specified committee):

(1) The chairman of the Committee on Agriculture of the House of Representatives.

(2) The ranking minority member of the Committee on Agriculture of the House of Representatives.

(3) The chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) The ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) Vacancy.--A vacancy on the Commission shall be filled by appointment by the Secretary of Agriculture in the manner provided in subsection (b).

(d) Chairperson.--The Commission shall elect a chairperson from among the members of the Commission by a majority vote.

(e) Meetings.--The Commission shall meet at the call of the chairperson or a majority of the members of the Commission.

Sec. 103. DUTIES.

(a) Study.--The National Commission on Natural Resources Disasters shall study the effects of fires on--

(1) the economic stability of the affected communities;

(2) the availability of sufficient timber supplies to meet future industry needs;

(3) fish and wildlife habitats;

(4) recreation in the affected areas;

(5) watershed and water quality protection plans in effect within National Forest System lands;

(6) ecosystems in the areas; and

(7) management plans of the affected National Forest System lands.

(b) Findings and Recommendations.--On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the Secretary of Agriculture with respect to the future management of National Forest System lands and community redevelopment activities and programs.

(c) Report.--The Commission shall submit to the Secretary of Agriculture, not later than December 1, 1991, a report containing its findings and recommendations. The Secretary of Agriculture shall forthwith submit the report to the Chairman of the Committee on Agriculture of the House of Representatives and the Chairman of the Committee on Agriculture, Nutrition and Forestry of the Senate, and the report is authorized to be printed as a House Document.

Sec. 104. OPERATION IN GENERAL.

(a) Agency Cooperation.--The heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office shall provide the Commission such information as may be required to carry out its duties and functions.

(b) Compensation.--Members of the Commission shall serve without compensation for work on the Commission. While away from their homes or regular places of business in the performance of duties of the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under section 5703 of title 5 of the United States Code.

(c) Director.--To the extent there are sufficient funds available to the Commission and subject to such rules as may be adopted by the Commission, the Commission, without regard to the

provisions of title 5 of the United States Code governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to the classification and General Schedule pay rates, may--

(1) appoint and fix the compensation of a director; and

(2) appoint and fix the compensation of such additional personnel as the Commission determines necessary to assist it to carry out its duties and functions.

(d) Staff and Services.--On the request of the Commission, the heads of executive agencies, the Comptroller General, and the Director of the Office of Technology Assessment may furnish the Commission with such office, personnel or support services as the head of the agency, or office, and the chairperson of the Commission agree are necessary to assist the Commission to carry out its duties and functions. The Commission shall not be required to pay, or reimburse, any agency for office, personnel or support services provided under this subsection.

(e) Exemption.--The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2, 1 et seq.).

(f) Exemption.--The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5 of the United States Code.

Sec. 105. FUNDING.

(a) Acceptance of Contributions.--Following the appointment of the members of the National Commission on Natural Resources Disasters, notwithstanding the provisions of section 1342 of title 31 of the United States Code, the Secretary of Agriculture may receive on behalf of the Commission, from persons, groups, and entities within the United States, contributions of money and services to assist the Commission in carrying out its duties and functions. Any money contributed under this section shall be made available to the Commission to carry out this Act.

(b) Limitation on Contribution.--The Secretary shall promulgate regulations to assure that the aggregate amount of contributions from any one person, group, or entity shall not exceed 10 per cent of the total amount of funds which will be contributed to the Commission.

(c) Records.--The Secretary shall keep, and shall make available for public inspection during normal business hours, records that fully disclose a complete list of every person, group, and entity making a contribution under this section, the address of the contributor, the amount and type of each such contribution, and the date the contribution was made.

(d) Excess Funds.--Any amount of money available to the Commission under this section that remains unobligated upon termination of the Commission shall be deposited in the Treasury as miscellaneous receipts.

Sec. 106. TERMINATION.

The National Commission on Natural Resources Disasters shall cease to exist ninety days following the submission of its report to the Secretary of Agriculture.

TITLE II--FOREST FIREFIGHTING PLANNING AND COOPERATION

Sec. 201. FINDINGS.

The Congress finds that--

(1) it is in the best interest of the Nation to take swift action to rehabilitate burned forests, and an assessment of the situation is necessary to accomplish this; and

(2) volunteers should be trained to assist where possible.

Annual Report on Rehabilitation Needs Resulting From Forest Fire Damage

Sec. 202. REPORT ON REHABILITATION NEEDS.

Not later than six months after the date of enactment of this Act and annually thereafter, the Secretary of Agriculture shall submit to the Congress a detailed report on the rehabilitation needs of each Forest Service Region resulting from disastrous forest fire damage during the previous year. Each such report shall specify the needs with respect to reforestation, vegetation management, timber stand improvement, fish and wildlife habitat restoration, soil conservation, and recreation.

Sec. 203. PLANNING FOR FIRE PROTECTION.

(a) Volunteer Firefighters.--The Secretary of Agriculture, through the Forest Service, shall annually offer training programs to certify volunteers for suppressing forest fires on National Forest System lands in the event that the Secretary determines that such volunteers are needed. In carrying out this subsection, the Secretary should utilize existing authorities to train volunteer firefighters for use in fire emergencies. The Secretary should assess the capabilities of educational institutions and other public and private organizations to provide such training programs.

(b) Definition.--For the purposes of this section, the term "educational institutions" shall include institutions established pursuant to the Act of July 2, 1862 (7 U.S.C. 301 et seq.; commonly known as the "Morrill Act"), or the Act of August 30, 1890 (7 U.S.C. 321 et seq.; commonly known as the "Second Morrill Act").

(c) Mobilization of Local Equipment.--Not later than one year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Congress, in the Report of the Forest Service, information which documents mobilization plans that provide for the use of firefighting equipment in cases of fire emergencies that may occur in each region of the National Forest System that may be highly prone to disastrous forest fires.

Sec. 204. VOLUNTEER COMPENSATION FOR LOSSES AND DAMAGES.

Section 3 of the Volunteers of the National Forests Act of 1972 (16 U.S.C. 588d) is amended by adding the following new subsection:

"(d) For the purposes of claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, a volunteer under this Act shall be considered a Federal employee, and the provisions of 31 U.S.C. 3721 shall apply.".

BRIEF EXPLANATION

H.R. 1011

Title I of H. R. 1011 will--

(1) establish a temporary, 25-member "National Commission on Natural Resources Disasters" appointed by the Secretary of Agriculture to study the effects of disastrous fires on National Forest System lands and make recommendations concerning the steps necessary to ensure an effective and efficient recovery from the losses of natural resources resulting from wildfires;

(2) require the Commission to submit a report to the Secretary of Agriculture not later than December 1, 1991, based on its study; and

(3) provide funding for the Commission from contributions of money and services.

Title II of H.R. 1011 will require the Secretary of Agriculture to--

(1) submit an annual report to Congress on the rehabilitation needs of each Forest Service region resulting from forest fire damage during the previous year;

(2) offer annual training programs to certify volunteer fire fighters using local educational facilities; and

(3) submit a report to Congress documenting local mobilization plans for emergency firefighting equipment in areas of the National Forest System which are highly prone to forest fires.

Title II also designates volunteers under this bill as Federal employees for the purposes of damage or loss claims which are incident to volunteer service.

SECTION BY SECTION ANALYSIS

H.R. 1011

TITLE I--NATIONAL COMMISSION ON NATURAL RESOURCES DISASTERS

Section 101--Findings

Section 101 provides findings and a declaration of Congressional policy.

Section 102--Establishment of the Commission

Section 102, in subsection (a), will establish a commission to be known as the National Commission on Natural Resources Disasters to study (as provided in section 103) the effects of fires on National Forest System lands and make recommendations concerning the steps necessary to ensure an effective and efficient transition from the losses of natural resources resulting from these fires.

Section 102, in subsection (b), provides that the Commission will be comprised of twenty-five members appointed by the Secretary of Agriculture. Not less than twenty of the members of the Commission must be appointed from nominations submitted to the Secretary by the following:

(1) The Chairman of the Committee on Agriculture of the House of Representatives after consultation with the committee.

(2) The ranking minority member of the Committee on

Agriculture of the House of Representatives after consultation with the committee.

(3) The Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate after consultation with the committee.

(4) The ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate after consultation with the committee.

Section 102, in subsection (c), will require the Secretary of Agriculture to fill any vacancy on the Commission in the same manner by which the original appointments were made.

Section 102, in subsection (d), will require the Commission to elect a chairperson from among the members of the Commission by a majority vote.

Section 102, in subsection (e), will require the Commission to meet at the call of the chairperson or a majority of the members of the Commission.

Section 103--Duties of the Commission

Section 103, in subsection (a), will require the Commission to study the effects of fires on-

(1) the economic stability of the affected communities;

(2) the availability of sufficient timber supplies to meet future industry needs;

(3) fish and wildlife habitats in the affected areas;

(4) recreation in the affected areas;

(5) watershed and water quality protection plans in effect within National Forest System lands;

(6) ecosystems in the affected areas; and

(7) land and resource management plans of the affected National Forest System lands.

Section 103, in subsection (b), will require the Commission, on the basis of its study, to make findings and develop recommendations for consideration by the Secretary of Agriculture with respect to the future management of National Forest System lands and community redevelopment activities and programs.

Section 103, in subsection (c), will require the Commission to submit to the Secretary of Agriculture, not later than December 1, 1990, a report containing the results of its study and recommendations based on the results and will require the Secretary to submit the report to the committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Section 104--Powers of the Commission; Compensation; Staff

Section 104, in subsection (a), will require the heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office to provide the Commission with any information that is necessary to enable the Commission to carry out its duties and functions.

Section 104, in subsection (b), provides that members of the Commission are to serve without compensation for work on the Commission. However, members of the Commission will be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under section 5703 of title 5, U.S.C., while away from their homes or regular places of business in the performance of duties of the Commission.

(Note: Section 5703 of title 5, U.S.C., provides that an employee serving intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis, or serving without pay or at $1 a year, may be allowed travel or transportation expenses, while away from his home or regular place of business and at the place of employment or service.)

Section 104, in subsection (c), authorizes the Commission, to the extent there are sufficient funds available under section 105 and subject to any rules that the Commission may prescribe, to--

(1) appoint and fix the compensation of a director; and

(2) appoint and fix the compensation of any additional personnel that the Commission determines are necessary to assist the Commission to carry out its duties and function.

This subsection provides that the director and staff of the

Commission may be appointed without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code relating to the classification and General Schedule pay rates.

Section 104, in subsection (d), will authorize the heads of executive agencies, the General Accounting Office, and the Office of Technology Assessment, on the request of the Commission, to furnish the Commission with personnel and support services as the head of the agency or office and the chairperson of the Commission agree are necessary to assist the Commission to carry out the duties and functions of the Commission. The Commission will not be required to pay or reimburse the agency or office for such personnel and support services.

Section 104, in subsection (e), will exempt the Commission from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

(Note: Section 7(d) of the Federal Advisory Committee Act provides that the Administrator of General Services, after study and consultation with the Director of the Office of Personnel Management, must establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner that gives appropriate recognition to the responsibilities and

qualifications required and other relevant factors. The regulations must provide that no member of any advisory committee or of the staff of any advisory committee will receive compensation at a rate in excess of the rate specified for GS-18 of the General Schedule under section 5332 of title 5, U.S.C.; that the members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, U.S.C., for persons employed intermittently in the Government service; and that the members who are blind or deaf or who otherwise qualify as handicapped individuals, and who do not otherwise qualify for assistance under section 3102 of title 5, U.S.C., by reason of being an employee of an agency, may be provided services pursuant to section 3102 of title 5 while in performance of their advisory committee duties. In addition, section 7(d) provides that nothing therein will prevent an individual who is a full-time employee of the United States, or an individual who immediately before his service with an advisory committee was an employee, from receiving compensation at the rate at which he otherwise would be compensated as a full-time employee of the United States.

Section 10(e) of the Federal Advisory Committee Act provides that there must be designated an officer or employee of the Federal Government to chair or attend each meeting of each

advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any meeting. No advisory committee can conduct any meeting in the absence of that officer or employee.

Section 10(f) of the Federal Advisory Committee Act provides that advisory committees cannot hold any meetings except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government and, in the case of advisory committees other than Presidential advisory committees, with an agenda approved by the officer or employee.

Section 14 of the Federal Advisory Committee Act provides, among other things, that each advisory committee established after October 6, 1972, will terminate not later than the expiration of the two-year period beginning on the date of its establishment unless, in the case of an advisory committee established by the President or an officer of the Federal Government, the advisory committee is renewed by the President or the officer by appropriate action prior to the end of the period; or in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

In addition, section 14 provides that, upon the renewal of any advisory committee, the advisory committee must file a charter in accordance with section 9(c) of the Act. Any advisory committee established by an Act of Congress must file a charter in accordance with the section upon the expiration of each

successive two-year period following the date of enactment of the Act establishing the advisory committee. No advisory committee required under section 14(b) of the Act to file a charter can take any action (other than preparation and filing of the charter) prior to the date on which the charter is filed. Any advisory committee that is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or the officer prior to the date on which the advisory committee would otherwise terminate.)

Section 104, in subsection (f), will exempt the Commission from the requirements of sections 4301 through 4305 of title 5 of the United States Code.

(Note: Section 4301 of title 5, U.S.C., provides definitions for the terms "agency", "employee", and "unacceptable performance".

Section 4302 of title 5, U.S.C., provides, among other things, that each agency must develop one or more performance appraisal systems that provide for periodic appraisals of job performance of employees; that encourage employee participation in establishing performance standards; and that use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.

Section 4302a of title 5, U.S.C., establishes performance appraisal systems for performance management and recognition

system employees.

Section 4303 of title 5, U.S.C., establishes procedures for an agency to reduce in grade or remove an employee for unacceptable performance.

Sections 4304 and 4305 of title 5, U.S.C., requires the Office of Personnel Management to provide technical assistance to agencies in the development of performance appraisal systems, to review the performance appraisal systems, and to prescribe regulations to carry out employee appraisal systems.)

Section 105--Funding

Section 105, in subsection (a), will authorize the Secretary of Agriculture to receive on behalf of the Commission, from persons, groups, and entities within the United States, contributions of money and services to assist the Commission to carry out the duties and functions of the Commission, following the appointment of the members of the Commission, notwithstanding the provisions of section 1342 of title 31 of the United States Code. Any money contributed under section 208 must be made available to the Commission to carry out title II.
(Note: Section 1342 of title 31, U.S.C., prohibits an officer or employee of the United States Government from accepting voluntary services or employing personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property.)

Section 105, in subsection (b), will require the Secretary to promulgate regulations to assure that the aggregate amount of contributions from any one person, group, or entity shall not exceed 10 percent of the total contributions to the Commission.

Section 105, in subsection (c), will direct the Secretary of Agriculture to keep, and to make available for public inspection during normal business hours, records that fully disclose a complete list of every person, group, and entity making a contribution under this section, the address of the contributor, the amount and type of each such contribution, and the date the contribution was made.

Section 105, in subsection (d), requires that any amount of money available to the Commission under this section that remains unobligated upon termination of the Commission will be deposited in the Treasury as miscellaneous receipts.

Section 106--Termination

Section 106 provides that the Commission will cease to exist ninety days after the submission of its report to the Secretary of Agricultura.

TITLE II--FOREST FIREFIGHTING PLANNING AND COOPERATION

Section 201--Findings

Section 201 contains findings of Congress.

Section 202--Annual Report On Rehabilitation Needs Resulting From Forest Fire Damage

Section 202 will require the Secretary of Agriculture to submit an annual report to Congress detailing the rehabilitation needs of each Forest Service Region from forest fire damage during the previous year. Each such report will specify the needs with respect to reforestation, vegetation management, timber stand improvement, fish and wildlife habitat restoration, soil conservation, and recreation. Reports following the initial report may be included in the annual Report of the Forest Service.

Section 203--Planning for Fire Protection

Section 203, in subsection (a), will require the Secretary of Agriculture, through the Forest Service, to offer annual training programs to certify volunteers for suppressing forest fires on National Forest System lands in the event that the Secretary determines that such volunteers are needed. In carrying out this subsection, the Secretary will use local educational facilities and other public and private organizations to provide such training programs.

Section 203, in subsection (b), defines "educational institutions" to include institutions established pursuant to the "Morrill Act" (7 U.S.C. 301 et seq.) and the "Second Morrill Act" (7 U.S.C. 321 et seq.).

Section 203, in subsection (c), will require the Secretary

of Agriculture to submit a report to Congress within one year of enactment of this Act documenting local mobilization plans for emergency firefighting equipment in areas of the National Forest which are highly prone to forest fires.

Section 204--Volunteer Compensation for Losses and Damages

Section 204 amends the Volunteers of the National Forests Act of 1972 (16 U.S.C. 588d) by adding a new subsection which designates volunteers under this bill as Federal employees for the purposes of claims relating to damage to, or loss of, personal property incident to volunteer service. This section also makes applicable the provisions of 31 U.S.C. 3721.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

October 6 1989

Honorable E (Kika) de la Carza
Chairman, Committee on Agriculture
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to your request for a report on H.R. 1011, the "Natural Resources Disaster Recovery Act of 1989," as reported by the Subcommittee on Forests, Family Farms, and Energy on June 7.

The Department of Agriculture does not oppose enactment of H.R. 1011.

Title I would establish a National Commission on Natural Resources Disasters. The 25-member commission would be composed of Federal, State, and local officials, timber industry representatives, nonindustrial private forest landowners, conservationists, and community leaders, appointed by the Secretary of Agriculture from nominations made by specified Members of Congress. The Commission would study the effects of the 1987 and 1988 fires on the affected communities and National Forest System lands and make recommendations to the Secretary of Agriculture by December 1, 1991, concerning community redevelopment activities and future management of National Forest System lands. The Secretary would be authorized to receive contributions of money and services from persons, groups, and organizations to assist the Commission. No direct Federal funding would be required for the Commission. Federal agencies could provide indirect personnel and support services as mutually agreed with the chairperson of the Commission. The Commission would cease to exist 90 days after its report was submitted to the Secretary.

Title II relates to forest firefighting and cooperation. Section 202 would require the Secretary to annually report to the Congress on the rehabilitation needs of each National Forest Region resulting from disastrous forest fire damage during the previous year. Section 203(a) would require the Secretary to offer training programs to certify volunteers for forest firefighting. Section 203(b) would require that the Report of the Forest Service include documentation on mobilization plans for fire equipment in cases of fire emergencies for each Region of the National Forest System which is highly prone to forest fires. Section 204 would provide for compensation for personal losses and damages to those participating as volunteers in the National Forests.

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H.R. 1011, as reported by the Subcommittee on Forests, Family Farms, and Energy, resolves the Department's concerns expressed in our letter of April 28.

We recommend that the reporting requirements of section 202 be implemented through the Annual Report of the Forest Service. This would be consistent with section 203(b) and provide a more efficient reporting method. Section 204 which provides for compensation for damage or loss of the personal property of a volunteer is similar to a legislative proposal we submitted to Congress on May 8.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Clayton Yeutter
Secretary

STATEMENT OF THE HONORABLE SID MORRISON
BEFORE THE AGRICULTURE COMMITTEE

MARK UP OF H.R. 1011 AND H.R. 2144

OCTOBER 26, 1989

Mr. Chairman, I am pleased to be here to mark-up three bills before our Committee, two of which have been passed by the Subcommittee on Forests, Family Farms and Energy, upon which I am the Ranking Minority Member.

The first bill, H.R. 1011 was introduced by Congressman Herger of California. It is a bill creating an advisory board to study fire damage on federal lands, reporting on the rehabilitation and presuppression needs of the U.S. Department of Agriculture. The bill also directs a study on the coordination of federal firefighting efforts with local agencies. It is a good bill, Mr. Chairman, and I urge the Committee to support it.

The second bill, H.R. 2144, introduced by Congressman Jontz of Indiana improves urban Forestry practices and was also favorably reported from the Forests, Family Farms and Energy Subcommittee.

Tree planting is widely considered to be one solution to the massive Global Warming crisis. Urban and Suburban settings are most acutely effected by the direct consequences of the Greenhouse Effect due to the lack of vegetation. The lack of vegetation is in sharp contrast to more rural areas where plant growth constantly modifies and enhances the environment. The role of trees has been frequently mentioned for their ability to reduce carbon dioxide and produce oxygen - countering the Greenhouse effect. Mr. Chairman, I would like to take this opportunity to add that the landscape has many environmental heros, and one of those heros is turf grasses - which should also be considered as part of the solution. For instance: 55 square feet of lawn provides enough oxygen for one person for one day; on a block of eight average houses, front lawns have the cooling effect of about 70 tons of air conditioning; turfgrasses absorb gaseous pollutants such as carbon dioxide from vehicles and sulfur dioxides from industrial sites; lawns substantially reduce runoff in urban and suburban settings, helping to reduce flooding and siltation and a buffer zone of grass around buildings helps retard the spread of fires.

Mr. Chairman, the American Forestry Association estimates that urban and community forests, those found in backyards, along streets and in city parks cover at least 70 million acres across the United States. That association estimates that planting more trees in Urban areas could reduce energy consumption as much as $4 billion a year by lowering temperatures and reducing air conditioning use. I would also say that the use of turfgrasses contributes to that same end.

Thank you, Mr. Chairman.

STATEMENT OF THE HONORABLE WALLY HERGER

HOUSE COMMITTEE ON AGRICULTURE

H.R. 1011

"THE NATURAL RESOURCES RECOVERY ACT OF 1989"

OCTOBER 26, 1989

Thank you, Mr. Chairman.

The catastrophic fires which burned over one half million acres in California in 1987 and nearly another million acres at Yellowstone National Park last year could become an annual occurrence if federal policies are not continually updated to meet the present challenges. The issues associated with fighting disastrous forest fires and helping affected communities to respond to the many contingent problems that result demand extensive efforts to develop the most effective federal policies.

In response to the catastrophic fires which burned over 400,000 acres in my northern California district in 1987, we assembled a "blue ribbon" task force of federal, state and local officials and other community leaders to look at ways of improving the federal response to fires on federal lands and mitigating the economic problems which inevitably result. This local panel developed many positive recommendations regarding ways to minimize impacts associated with the fires on surrounding communities as well as improved efforts for preventing such fires from recurring. One of the major recommendations made by the task force concerning appeals on salvage sales has been recently implemented by the forest service. In other words, the task force was an invaluable source of public input for me and others

who are interested in this area of federal policy.

H.R. 1011 establishes a 25 member task force which would be assembled for the purpose of making recommendations to the Secretary of Agriculture regarding the preparation for and response to disastrous forest fires on federal lands. I have worked with other members of the Subcommittee to ensure that all points of view from different parts of the nation will be adequately represented among the participants. The bill also provides for the assessment of rehabilitation needs, equipment mobilization plans and volunteer training capabilities. An amendment was added at the request of the Administration which provides for just compensation to volunteers who experience damage to personal property while fighting fires. And finally, we have addressed the budgetary concerns of the Administration and some of my colleagues by providing for full private funding of the task force.

This legislation is essentially an effort to expand the success of our local task force to the national level. While I believe that the Forest Service is generally doing a good job of developing and implementing effective policies in this area, I also believe that there is a real need for increased public input into this process. This view has been expressed by many different sources recently, most notably by the Fire Management Policy Review Team, established jointly by the Agriculture and Interior Departments, in its report of December 1988. That report stated that "agencies will increase opportunities for public involvement and coordination with state and local

governments when revising or developing fire management plans". The "Natural Resources Recovery Act of 1989" would provide a national forum for the purpose of filling the need for increased public input in this area of federal policy.

I greatly appreciate the efforts and support of my colleagues on the Forests, Family Farms and Energy Subcommittee, and especially those of the distinguished Chairman of that Subcommittee, Mr. Volkmer, and the Ranking Minority Member, Mr. Morrison, in crafting a bill which would effectively implement a way to bring more public input into the policy-making process. I hope that my colleagues on the full Agriculture Committee will agree that this legislation is truly of national benefit at this time.

H.R. 2144

As Reported by the Subcommittee on

Forests, Family Farms, and Energy

SECTION 1. SHORT TITLE.

This Act may be cited as the "Urban and Community Forestry Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that--

(1) the health of forests in urban areas and communities, including cities, their suburbs, and towns, in the United States is on the decline;

(2) forest lands, shade trees, and open spaces in urban areas and communities improve the quality of life for residents;

(3) forest lands and associated natural resources enhance the economic value of residential and commercial property in urban and community settings;

(4) tree plantings in urban areas and communities can aid in reducing carbon dioxide emissions, mitigating the heat island effect, and reducing energy consumption, thus contributing to efforts to reduce global warming trends;

(5) efforts to encourage tree plantings and protect existing open spaces in urban areas and communities can contribute to the social well-being and promote a sense of community in these areas; and

(6) strengthened research, education, technical

assistance, and public information and participation in tree planting and maintenance programs for urban and community forests are needed to provide for the protection and expansion of tree cover and open space in urban areas and communities.

SEC. 3. PURPOSES.

The purposes of this Act are to--

(1) improve understanding of the benefits of preserving existing tree cover in urban areas and communities;

(2) encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;

(3) provide education programs and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban and community settings and identifying appropriate tree species and sites for expanding forest cover;

(4) implement a tree planting program to complement urban and community tree maintenance and open space programs;

(5) promote the establishment of demonstration projects in selected urban and community settings to illustrate the benefits of maintaining and creating forest cover and trees;

(6) enhance the technical skills and understanding of sound tree maintenance and arboricultural practices of individuals involved in the planning, development, and maintenance of urban and community forests and trees; and

(7) expand existing research and educational efforts intended to improve understanding of tree growth and maintenance, tree physiology and morphology, species adaptations, forest ecology, and the economic, environmental, social, and psychological benefits of trees and forest cover in urban and community environments.

SEC. 4. EDUCATION, TECHNICAL ASSISTANCE, AND RESEARCH ACTIVITIES.

(a) Amendment to Cooperative Forestry Assistance Act.--(1) Section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) is amended as follows:

(A) Redesignate subsection (c) as subsection (h).

(B) Insert the following new subsections:

"(c) The Secretary in cooperation with State foresters and State extension agents or equivalent State officials, shall implement a program of education and technical assistance for urban forest resources. The program shall be designed to--

"(1) assist urban areas and communities in conducting inventories of their forest resources, including inventories of the species, number, location, and health of trees in urban areas and communities, and the status of related resources (including fish and wildlife habitat, water resources, and trails);

"(2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;

"(3) improve education and technical support in--

"(A) selecting tree species appropriate for planting in urban and community environments;

"(B) providing for proper tree planting, maintenance, and protection in urban areas and communities;

"(C) protecting individual trees and preserving existing open spaces with or without tree cover; and

"(D) identifying opportunities for expanding tree cover in urban areas and communities;

"(4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and

"(5) increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.

"(d) The Secretary, in cooperation with State foresters or equivalent State officials, shall assist in identifying sources of plant materials and may procure or otherwise obtain such materials from public or private sources and may make plant materials available to urban areas and communities for the purpose of reforesting open spaces, replacing dead and dying urban trees, and expanding tree cover in urban areas and communities.

"(e)(1) The Secretary shall establish an urban and community forestry challenge cost share program. Funds or other support shall be provided under such program to eligible communities and organizations, on a competitive basis, for urban and community forestry projects. The Secretary shall annually make awards under the program in accordance with criteria developed in consultation with, and after consideration of recommendations received from, the National Urban and Community Forestry Advisory Council established under subsection (f). Such awards shall be consistent with the cost share requirements of this section.

"(2) The Federal share of support for a project provided under this subsection may not exceed 50 percent of the support for that project and shall be provided on a matching basis. the non-Federal share of such support may be in the form of cash, services, or in-kind contributions, fairly valued.

"(f)(1) The Secretary shall establish a National Urban and Community Forestry Advisory Council for the purpose of--

"(A) developing a national urban and community forestry action plan;

"(B) evaluating the implementation of that plan; and

"(C) developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost share program under subsection (e).

"(2)(A) The Council shall be composed of 15 members appointed by the Secretary, as follows:

"(i) 2 members representing national nonprofit forestry and conservation citizen organizations;

"(ii) 3 members, 1 each representing State, county, and city and town governments;

"(iii) 1 member representing the forest products, nursery, or related industries;

"(iv) 1 member representing urban forestry, landscape, or design consultants;

"(v) 2 members representing academic institutions with an expertise in urban and community forestry activities;

"(vi) 1 member representing State forestry agencies or an equivalent State agency;

"(vii) 1 member representing a professional renewable natural resource or arboriculture society;

"(viii) 1 member from the Extension Service;

"(ix) 1 member from the Forest Service;

"(x) 2 members who are not officers or employees of any governmental body, 1 of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active in urban and community forestry.

"(B) A vacancy in the Council shall be filled in the manner in which the original appointment was made.

"(C) The Secretary shall select 1 member, from members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, who shall serve as the chairperson of the Council.

"(D)(i) Except as provided in clauses (ii) and (iii), members shall be appointed for terms of 3 years, and no member

may serve more than two consecutive terms on the Council.

"(ii) Of the members first appointed--

"(I) 5, including the chairperson and 2 governmental employees, shall be appointed for a term of 3 years;

"(II) 5, including 2 governmental employees, shall be appointed for a term of 2 years; and

"(III) 5, including 2 governmental employees, shall be appointed for a term of 1 year,

as designated by the Secretary at the time of appointment.

"(iii) Any member appointed to fill a vacancy occurring before the expiration of the term of the member's predecessor shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

"(E)(i) Except as provided in clause (ii), members of the Council shall serve without pay, but may be reimbursed for reasonable costs incurred while in the actual performance of duties vested in the Council.

"(ii) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

"(iii) The Secretary shall provide financial and administrative support for the Council.

"(3) Within 1 year after the date of enactment of this subsection and every 10 years thereafter, the Council shall prepare a National Urban and Community Forestry Action Plan. The

plan shall include (but not be limited to) the following:

"(A) An assessment of the current status of urban forest resources in the United States.

"(B) A review of urban and community forestry programs and activities in the United States, including education and technical assistance activities conducted by the Forest Service, Extension Service, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and interested others.

"(C) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies.

"(D) A review of urban and community forestry research, including--

"(i) a review of all ongoing research associated with urban and community forests, arboricultural practices, and the economic, social, and psychological benefits of trees and forest cover in urban and community environments being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;

"(ii) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and

"(iii) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years.

"(E) Proposed criteria for evaluating proposed projects under the urban and community forestry challenge cost share program under subsection (e), with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities.

"(F) An estimate of the resources needed to implement the plan for the succeeding 10 fiscal years.

"(4) The plan may be amended by a majority of the Council members. Such amendments shall be incorporated into the Council's annual review of the plan submitted to the Secretary pursuant to paragraph (5) of this subsection.

"(5) The Council shall submit the plan to the Secretary and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate upon its completion. Beginning no later than one year after the plan is submitted and annually thereafter, the Council shall submit a review of the plan to the Secretary no later than December 31. The review shall consist of--

"(A) the Council's assessment of prior year accomplishments in research, education, technical assistance, and related activities in urban and community forestry;

"(B) the Council's recommendations for research, education, technical assistance,and related activities in the succeeding year; and

"(C) the Council's recommendations for the urban and community forestry challenge cost share projects to be funded during the succeeding year.

The review submitted to the Secretary shall be incorporated into the annual report of the Forest Service to the Congress under the Forest and Rangeland Renewable Resources Planning Act of 1974.

"(6) Upon request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this Act.

"(7) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(g) For the purposes of this section--

"(1) the term 'Council' means the National Urban and Community Forestry Advisory Council established under subsection (f);

"(2) the term 'plan' means the National Urban and Community Forestry Action Plan developed under subsection (f)(3); and

"(3) the term 'urban and community area' includes cities, their suburbs, and towns.".

(b) Amendment to Renewable Resources Extension Act.--(1) Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended--

(A) by striking "and" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(9) in cooperation with State foresters or equivalent State officials, increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community area environments and expand knowledge of the ecological relationships and benefits of trees and related resources in urban and community environments.".

(2) Section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674(a)) is amended by striking "for planting and management of trees and forests in urban areas," and inserting "urban and community forestry activities,".

BRIEF EXPLANATION OF H.R. 2144

AS REPORTED BY THE SUBCOMMITTEE ON

FORESTS, FAMILY FARMS AND ENERGY

The bill requires the Secretary of Agriculture to implement a program of education and technical assistance to improve urban forest resources.

The bill also requires the Secretary to establish an urban and community forestry challenge cost share program.

The bill requires the Secretary to establish a 15 member National Urban and Community Forestry Advisory Council to help develop the criteria for the cost share program and develop a national urban and community forestry action plan.

The bill also directs the Secretary to increase public understanding of the values of urban forestry.

SECTION-BY-SECTION ANALYSIS

H.R. 2144

AS REPORTED BY THE SUBCOMMITTEE ON

FORESTS, FAMILY FARMS AND ENERGY

SECTION 1.--SHORT TITLE.

Section 1 gives the short title of the bill as the "Urban and Community Forestry Act of 1989".

SECTION 2.--FINDINGS.

Section 2 contains various findings of Congress related to forests and trees in urban areas and communities.

SECTION 3.--PURPOSES.

Section 3 lists the purposes of the bill.

SECTION 4.--EDUCATION, TECHNICAL ASSISTANCE, AND RESEARCH ACTIVITIES.

Section 4(a) amends section 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) by adding 5 new subsections as follows:

The new section 6(c) directs the Secretary of Agriculture to implement a program of education and technical assistance for urban forest resources in cooperation with State foresters and State extension agents. This program must be designed to--

(1) assist urban areas and communities in conducting inventories of their forest resources, including inventories of the species, number, location, and health of trees in urban areas and communities, and the status of related resources (including fish and wildlife habitat, water

resources, and trails);

(2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;

(3) improve education and technical support in--

(A) selecting tree species appropriate for planting in urban and community environments;

(B) providing for proper tree planting, maintenance, and protection in urban areas and communities;

(C) protecting individual trees and preserving existing open spaces as open space or for tree cover; and

(D) identifying opportunities for expanding tree cover in urban areas and communities;

(4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and

(5) increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.

This bill is not intended to alter the existing relative roles of State Foresters and State extension agents nor to

diminish the amount of funding for programs in existence at the time of enactment.

The new section 6(d) directs the Secretary to assist urban areas and communities in identifying public and private sources of plant materials for reforesting open spaces, replacing dead and dying urban trees, and expanding tree cover in urban areas and communities. In addition, the Secretary is authorized to make such materials available to urban areas and communities through donation or purchase of such materials or by other means. To the extent that federal tree nurseries have stocks in excess of the reforestation needs of the national forests, the Secretary, in cooperation with appropriate state officials, should make these materials available to urban and community areas to aid in their tree planting efforts. Where State or other public nurseries have similar excess stocks, the Secretary may accept donations from such nurseries for use in such planting efforts.

The new section 6(e) directs the Secretary to establish a challenge cost share program which will provide funds on a competitive basis for urban and community forestry projects. This section directs the Secretary to make annual awards under the program in accordance with criteria and recommendations developed in consultation with the National Urban and Community Forestry Advisory Council established under the new section 6(f). Section 6(e) limits the federal share of support for a project

that is provided under that subsection to no more than 50 percent of the support for that project and requires such support to be provided on a matching basis. Section 6(e) further provides that the non-Federal share of such support may be in the form of cash, services, or in-kind contributions, fairly valued.

The new section 6(f) further directs the Secretary to establish a National Urban and Community Forestry Advisory Council for the purpose of--

1) developing a national urban and community forestry action plan;

2) evaluating the implementation of that plan; and

3) developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost share program under section 6(e).

The new section 6(g) also directs the Secretary to appoint the 15 members of the Council, to be selected as follows:

1) 2 members representing national nonprofit forestry and conservation citizen organizations;

2) 3 members, 1 each representing State, county, and city and town governments;

3) 1 member representing the forest products, nursery, or related industries;

4) 1 member representing urban forestry, landscape, or design consultants;

5) 2 members representing academic institutions with an

expertise in urban and community forestry activities;

6) 1 member representing State forestry agencies or an equivalent State agency;

7) 1 member representing a professional renewable natural resource or arboriculture society;

8) 1 member from the Extension Service;

9) 1 member from the Forest Service;

10) 2 members who are not officers or employees of any governmental body, 1 of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active in urban and community forestry.

Any vacancy in the Council is to be filled in the manner in which the original appointment was made. Section 6(f) directs the Secretary to select 1 member, from members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, to serve as the chairperson of the Council.

The new section 6(f) limits the appointments of the various members of the Council to three years (except for the initial Council, one third of whose terms are for one year and one third are for 2 years) and to no more than two consecutive terms. Section 6(f) further requires appointees to serve without pay but allows reimbursement for reasonable costs incurred in the performance of duties as a member of the Council. Section 6(f)

directs the Secretary to provide financial and administrative support for the Council.

The new section 6(f)(3) directs the Council to prepare a National Urban and Community Forestry Action Plan. The plan must include (but is not limited to) the following:

(1) An assessment of the current status of urban forest resources in the United States.

(2) A review of urban and community forestry programs and activities in the United States, including education and technical assistance activities conducted by the Forest Service, Extension Service, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and interested others.

(3) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies.

(4) A review of urban and community forestry research, including--

(a) a review of all ongoing research associated with urban and community forests, arboricultural practices, and the economic, social, and psychological benefits of trees and forest cover in urban and

community environments being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;

(b) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and

(c) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years.

(5) Proposed criteria for evaluating proposed projects under the urban and community forestry challenge cost share program under section 6(e), with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities.

(6) An estimate of the resources needed to implement the plan for the succeeding 10 fiscal years.

The new section 6(f) also provides for amendments to the plan, submission of the plan to the Secretary and the House and Senate Agriculture Committees, and an annual review of the plan by the Council. The Secretary is authorized to detail USDA employees to the Council, on a reimbursable basis. The Federal Advisory Committee Act would not be applicable to the Council.

The new section 6(g) defines, for purposes of that section,

the term "Council" to mean the National Urban and Community Forestry Advisory Council, the term "plan" to mean the National Urban and Community Forestry Action Plan authorized in section 6(f), and the term "urban and community area" to include cities, their suburbs, and towns.

Section 4(b) of the bill amends section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) by adding to the end a new paragraph. The new paragraph directs the Secretary, under conditions the Secretary may prescribe and in cooperation with State directors of cooperative extension service programs, eligible colleges and universities, and State foresters or equivalent State officials, to increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community area environments and expand knowledge of the ecological relationships and benefits of trees and related resources in urban and community environments.

Section 4(b) also amends section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674(a)) by expanding the scope of the existing Renewable Resources Extension Programs for "planting and management of trees and forests in urban areas" to include instead "urban and community forestry activities".

United States Department of Agriculture | Forest Service | Washington Office | 12th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

Reply To: 1510

Date: OCT 2 1989

Honorable Sid Morrison
House of Representatives
Washington, D.C. 20515

Dear Congressman Morrison:

I understand that you would like clarification about the effect H.R. 2144, the "Urban and Community Forestry Act of 1989," would have on Forest Service State and Private Forestry programs. We believe H.R. 2144 would strengthen our authorization to carry out urban forestry programs. However, implementation of the legislation would be subject to the annual appropriations process. Under existing authority, our urban forestry program is funded at $2.8 million for FY 1990. We do not see the passage of this act as adversely affecting in any way other State and Private Forestry programs.

Sincerely,

for F. DALE ROBERTSON
Chief

H.R. 2209

AS REPORTED BY THE SUBCOMMITTEE ON

WHEAT, SOYBEANS, AND FEED GRAINS

OCTOBER 26, 1989

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) Findings.--Congress finds that--

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybean and soybean

products are vital to the welfare of soybean products and those concerned with marketing, using and producing soybeans and soybean products as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) Policy.--It, therefore, is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for developing, financing (through adequate assessments on all soybeans produced

domestically), and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to strengthen the soybean industry's position in the marketplace and to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products.

(c) Construction.--Nothing in this Act may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Board" means the United Soybean Board established under section 5(a) of this Act.

(2) The term "commerce" means interstate, foreign, or intrastate commerce.

(3) The term "Committee" means the Soybean Program Coordinating Committee established under section 5(d) of this Act.

(4) The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of soybeans or soybean products: Provided, That such term does not include information designed to influence any action or policy of the United

States Government.

(5) The term "Department" means the Department of Agriculture.

(6) The term "first purchaser" means (A) any person buying or otherwise acquiring after harvest soybeans from a producer, including any mortgagee, pledgee, lienor, or other person having a lien against the producer under a nonrecourse loan made after harvest against soybeans produced by the producer, and (B) in any case in which soybeans are pledged or encumbered under any Federal price support loan program, the Commodity Credit Corporation.

(7) The term "industry information" means information and programs that will lend to the development of new markets, new marketing strategies, increased efficiency, or activities to enhance the image of the soybean industry: Provided, That such term does not include information and programs designed to influence any action or policy of the United States Government.

(8) The term "market development activities" means activities designed to identify and eliminate barriers to export sales of soybeans or soybean products and activities designed to communicate, to foreign consumers, importers, wholesalers, retailers, or government officials, information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or

distribution of soybeans and soybean products: Provided, That such term does not include programs designed to influence any action or policy of the United States Government.

(9) The term "marketing" means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(10) The term "net market price" means the price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors.

(11) The term "order" means an order issued under section 4.

(12) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperation, association, cooperative, or any other entity.

(13) The term "producer" means any person engaged in the growing of soybeans who owns, or who shares the ownership and risk of loss of, such soybeans.

(14) The term "promotion" means any action, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets: Provided, That such term does not include programs designed to influence any action or policy of the United States Government.

(15) The term "qualified State soybean board" means a State soybean promotion entity that is authorized by State law or, if no such entity exists in a State, a soybean grower-governed entity that is organized and operating within a State, that receives voluntary contribution and conducts soybean promotion, research, consumer information, or industry information programs, and that is recognized by the Board as the soybean promotion entity within the State.

(16) The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products: Provided, That such term does not include Programs designed to influence any action or policy of the United States Government.

(17) The term "Secretary" means the Secretary of Agriculture.

(18) The term "soybean products" means products produced in whole or in part from soybeans or soybean by-products,

(19) The term "soybeans" means all varieties of Glycine max or Glycine soya.

(20) The terms "State" and "United States" include the fifty States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 4. ISSUANCE OF ORDERS

(a) In General.--To effectuate the declared policy of section 2(b) of this Act, the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this Act applicable to producers and first purchasers of soybeans. Any such order shall be national in scope, and not more than one order shall be in effect under this Act at any one time.

(b) Procedure.--(1) The Secretary may propose the issuance of an order under this Act, or an association of soybean producers or any other person that will be affected by this Act may request the issuance of, and submit a proposal for, such an order.

(2) Not later than thirty days after the receipt of a request and proposal by an interested person for an order, or whenever the Secretary determines to propose for an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) After notice and opportunity for public comment are given (as provided in paragraph (2)), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements under this Act. Such order shall be issued and become effective not later than

one hundred and twenty days following publication of the proposed order.

(c) Amendments.--The Secretary, from time to time, may amend any order issued under this section.

SEC. 5. REQUIRED TERMS IN ORDERS.

Any orders issued under this Act shall contain the following terms and conditions:

(a) Establishment and Membership of the United Soybean Board.--(1) The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State units, as provided in paragraphs (2) and (3). The cumulative number of seats on the Board shall be the total of seats to which all the units are entitled.

(2) The Secretary shall establish seats on the Board and appoint soybean producers to such seats from nominations received, as follows:

(A) Except as provided in subparagraph (B), each whole State shall be considered as a unit.

(B) A State in which average annual soybean production is less than three million bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean

production of less than three million bushels shall be grouped with other States with average annual soybean production of less than three million bushels into a combined unit, in a manner prescribed in the order. To the extent practicable, each combined unit shall group geographically contiguous States together. Each combined unit shall have an average annual production of soybeans of at least three million bushels.

(C) Subject to subparagraph (E), each unit, as established under subparagraph (A) or (B)--

(i) if its average annual soybean production is less than fifteen million bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is fifteen million bushels or more but less than seventy million bushels, shall be entitled to two seats on the Board;

(iii) if its average annual soybean production is seventy million bushels or more but less than two hundred million bushels, shall be entitled to three seats on the Board; and

(iv) if its average annual soybean production is two hundred million bushels or more, shall be entitled to four seats on the Board.

(D) For purposes of subparagraphs (B) and (C), the

Secretary shall determine average annual soybean production applicable to a crop year by using the average of the five previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(E) At the end of each three-year period beginning with the three-year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent it determines appropriate, changes in the levels of production used in subparagraphs (B) and (C) to determine per-unit representation on the Board: Provided, That a unit shall not lose, under this subparagraph, Board seats to which it is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (D), declines below the levels required for representation, as specific in subparagraph (B) or (C).

(3)(A) For each unit established under paragraph (2), nominations of person to serve as members of the Board shall be submitted to the Secretary. At least one and five-tenths nominations shall be submitted for each appointment to the Board to which the unit is entitled, as determined under paragraph (2).

(B)(i)(I) The Secretary shall solicit nominations for each appointment to the initially established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such boards

meets the criteria of section 3(15) of this Act. If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(II) The Secretary shall solicit nominations for each appointment to the initially established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits to the Secretary satisfactory evidence that such board meets the criteria of section 3(15) of this Act.

(ii)(I) Nominations for each subsequent appointment to the Board to which a State unit is entitled shall be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(II) The Secretary shall solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(4) Each appointment to the Board shall be for a term of three years, except that appointments to the initially established Board shall be proportionately for one-year, two-

year, and three-year terms. No person may serve more than three three-year terms. Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(5) The order shall provide for at least one meeting of the Board annually and specify the circumstances in which additional special meetings of the Board may be held.

(b) Powers and Duties of the Board.--The order shall define the powers and duties of the Board and shall include the following powers and duties (1) to administer the order in accordance with its terms and provisions; (2) to make regulations to effectuate the terms and provisions of the order; (3) to elect members of the Board to serve on the Committee; (4) to approve or disapprove budgets submitted by the Committee; (5) to contract with appropriate persons to implement plans or projects; (6) to receive, investigate, and report to the Secretary complaints of violations of the order; (7) to recommend to the Secretary amendments to the order; and (8) to provide at least annually a report to producers accounting for funds and describing programs implemented.

(c) Board Voting Procedures.--(1) The order shall establish procedures for the conduct of voting by the Board, as provided in this subsection.

(2) Each member of the Board shall be entitled, in any vote

conducted by the Board, to cast the number of votes determined under the following rules:

(A) Each member shall be entitled to cast one vote unless a rollcall vote is conducted. On a request for a rollcall vote or on a rollcall vote required under paragraph (3)(C), each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) The additional votes that each member is assigned for rollcall votes shall be computed as follows:

(i) Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit (net of any refunds made under subsection (i)(2)), on the average, during each of the three previous fiscal years of the Board.

(ii)(I) During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the three immediately preceding crop years.

(II) The order shall provide appropriate adjustments of the procedure for the allotment of votes

under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) A unit's total votes under clause (i) or (ii) shall be divided equally among all the members representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

(3)(A) Except as provided in subparagraphs (B) and (C), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) Any member of the Board may call for a rollcall vote on any motion. Except as otherwise provided in subparagraph (C) or in the bylaws adopted by the Board, whenever a rollcall vote is conducted, the motion shall carry only if approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each unit determined by a simple majority of all votes cast by members in that unit).

(C) A motion by a Board member to authorize any disbursement of funds that would cause outlays under any approved budget to be exceeded shall be subject to a rollcall vote and shall carry only if approved by two-thirds of all eligible votes on the Board and by a simple majority of all units on the Board (with the vote of each unit determined by a simple majority of all eligible votes assigned to that unit).

(4) In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) A member may not cast votes by proxy.

(d) Establishment of a Soybean Program Coordinating Committee and Membership.--(1) The order shall provide for the establishment of a Soybean Program Coordinating Committee to assist in the administration of the order, as provide in this subsection.

(2) The Committee shall be composed of the Chairman of the Board, nine additional members of the Board elected by the Board, and nine producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of the State soybean boards and that, on the date of the enactment of this Act, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Agricultural Service of the Department. To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization shall be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

(3) Terms of appointment of the Committee shall be for one year. No person may serve on the Committee for more than six consecutive terms. Committee members shall serve without compensation, but shall reimbursed for their reasonable expenses incurred in performing duties for the Committee.

(4) The Chairman of the Board shall serve as Chairman of the Committee.

(e) Powers and Duties of the Committee.--The order shall define the powers and duties of the Committee, which shall include the following:

(1) The Committee shall develop and submit to the Board, for approval, budgets on a fiscal year basis of anticipated expenses and disbursements, including probable costs of advertising and promotion, research, consumer information, industry information, and market development projects. The Board shall approve or disapprove each such budget and, if approved, shall submit such budget to the Secretary for the Secretary's approval. Each such budget shall be approved or disapproved by the Secretary within 45 days after the Secretary receives the budget.

(2) The Committee shall review or, on its own initiative, develop plans or projects of advertising and promotion, research, consumer information, industry information, and market development activities, to be paid for with funds received by the Board. Each such plan or project shall be presented to the Board for approval.

(f) Administration.--(1) The order shall provide that the Board shall be responsible for all expenses of the Board and Committee, and the Board and Committee shall use staff and facilities of established national, nonprofit soybean producer-

governed organizations to prevent duplication and inefficient use of funds. Staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of the Board and Committee.

(2) The order shall provide that costs incurred by the Board in administering the order (not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 per centum of the projected level of revenues to the Board (net of any refunds made under subsection (i)(2)) for that fiscal year.

(g) Contracts and Agreements.--To ensure coordination and efficient use of funds, the order shall provide that the Board shall enter into contracts or agreements for the implementation and carrying out of the activities authorized by this Act with established national, nonprofit soybean producer-governed organizations (including the organization electing representatives to the Committee under subsection (d)(2)), and for the payment thereof with funds received by the Board under the order. Any such contract or agreement shall provide that (1) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project; (2) the plan or project shall become effective

upon the approval of the Secretary, and (3) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(h) Books and Records.--The order shall require the Board to (1) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe, (2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and (3) account for the receipt and disbursement of all funds entrusted to the Board. The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(i) Assessments.--(1)(A)(i) The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate.

(ii) The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser. The net market sold by the producer to the first purchaser. The net price of soybeans pledged or encumbered as security for a loan extended under any Federal Price-Support Loan Program shall be the principal amount

of the loan extended.

(B) The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2)(A) The order shall provide that, during the period prior to the approval of the continuation of the order in the referendum provided for in section 6(a), as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if--

(i) such producer is responsible for paying the assessment; and

(ii) such producer does not support the programs, projects, or activities implemented under the order.

(B) Subject to the provisions of subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period (not to exceed 90 days) prescribed by the Board.

(C)(i) In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the

qualified State soybean board; and such board shall process such submissions under procedures established by State statute applicable to refunds of assessments on soybeans.

(ii) In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

(D) Subject to the provisions of subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no case more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(E) If the Secretary determines that producers do not favor the continuation of the order in the referendum provided for in section 6(a), refunds shall be made under this paragraph on collected assessments until such collections are terminated, as provided in section 6(a).

(3) The assessments (net of any refunds under paragraph (2)) shall be used for payment of the expenses incurred in implementation and administration of the order, the establishment of a reasonable reserve, and reimbursement to the Secretary of administrative costs incurred by the Secretary after an order has been issued.

(4) A producer who can establish that such producer is contributing to qualified State soybean board shall receive

credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. There shall be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced: Provided, That the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as appropriate to ensure effective coordination of collection procedures among States.

(j) Loan Collateral.--(1) The order may establish a procedure that authorizes the reimbursement of assessments paid by producers when soybeans, pledged as collateral for a loan issued under any Federal price support loan program, are redeemed. In such case, the first purchaser of redeemed soybeans shall be responsible for collecting all assessments due and remitting them in the manner prescribed in the order.

(2) The procedures in the order for the collection of assessments on soybeans that are pledged as collateral for loans issued under any Federal price support program shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order.

(k) Certain for Certain Costs to States.--The order shall provide that the Board may provide a credit to each qualified

State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such feed by the qualified State soybean board is required by State statute enacted prior to March 3, 1989: Provided, That the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 per centum of the amount of assessments collected and remitted to the Board under subsection (i).

(l) Minimum Level of Assessments to States.--(1) The order shall contain provisions to ensure that, during the period prior to conduct of the referendum provided for in section 6(a), each qualified State soybean board receives annually an amount of money equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph (3).

(2) The order shall provide, effective after the conduct of the referendum provided for in section 6(a), subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which (A) the amount equal to one cent times the average number of bushels of soybeans produced in the State during each of the preceding five years (excluding the year in which the production is the highest

and the year in which the production is the lowest) exceeds (B) the total amount collected by qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (i).

(3) The total amount of credits under paragraph (1) or (2 and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in the State under subsection (i) (net of any refunds made under paragraph (2) of subsection (i)) in that year.

(m) Investment of Funds.--The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending their disbursement, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interested by the United States. Income from any such investment may be used for any purpose for which the invested funds may be used.

(n) Prohibition.--(1) Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing any action or policy of the United States Government.

(2) The prohibition in paragraph (1) shall not apply to--

(A) the development and recommendation of amendments to the order; or

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, industry information, or market development activities under the order.

(o) Books and Records.--(1)(A) The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order: Provided, That the order shall exempt small farmers processing soybeans of their own production who are not required to pay assessments under the order from such recordkeeping and reporting requirements.

(B) The Board shall define the term "small farmer", as that term is used in subparagraph (A).

(2)(A) Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate to the administration or enforcement of this Act, or any order or regulation issued under this Act.

(B) In addition, the Secretary shall authorize the use under

upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and if an agent of the Board or an officer or employee of the Department, shall be removed from office.

(p) Incidental Terms and Conditions.--The order shall provide terms and conditions, not inconsistent with the provisions of this Act, as necessary to effectuate the provisions of the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (i).

SEC. 6 REFERENDA.

(a) Initial Referendum.--Not earlier than eighteen months or late than thirty-six months following issuance of an order under section 4 of this Act, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued. Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum. If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within six months after the referendum and shall terminate the order in an orderly manner

as soon as practicable.

(b) Additional Referenda.--(1)(A) After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth are producers in any one State, as determined by the Secretary.

(C) Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

(2) If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

(3)(A) To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum

under this subsection, the Secretary, five years after the conduct of a referendum under this section and every five years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

(B)(i) To implement the requirements of clause (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices on a date established by the Secretary, or as provided in clause (ii).

(ii) In lieu of making such requests in person, producers may make requests by mail. Mail-in requests must be postmarked no later than the date established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the date established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedures specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers can act to request the additional referendum under this paragraph. The Secretary shall take such other actions as the Secretary determines necessary to

ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as required under paragraph (1).

(E) Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than one year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) Procedures.--(1) The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under this section, except for the salaries of Government employees.

(2) Each referendum shall be conducted on a date established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum.

(3) Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be

provided upon request.

SEC. 7. PETITION AND REVIEW.

(A) Petition.--Any person subject to any order issued under this Act may file with the Secretary a petition stating that such order, any provision of such order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) Review.--The district courts of the United States in any district in which such person is an inhabitant or carries on business are hereby vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within twenty days after the date of the entry of such ruling. Service of process in such proceedings may be conducted on the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in the opinion of the court, the law

requires.

SEC. 8. ENFORCEMENT.

(a)(1) Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this Act.

(2) A civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this Act if the Secretary believes that the administration and enforcement of this Act would be adequately served by providing a suitable written notice or warning to a person who committed such violation or by administrative action under subsection (b).

(b)(1)(A) A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary--

(i) a civil penalty of not more than $1,000 for each such violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by the order, an additional penalty equal to the amount of such assessment.

(B) Each such violation shall be a separate offence.

(C) In addition to or in lieu of such civil penalty, the

Secretary may issue an order requiring such person to cease and desist from violating such order or regulation.

(D) No order assessing a penalty or cease and desist order may be issued unless the Secretary gives such person notice and opportunity for a hearing on the record with respect to such violation.

(E) An order issued under this paragraph by the Secretary shall be final and conclusive unless such person files an appeal from such order with the appropriate United States court of appeals not later than thirty days after such person receives notice of such order.

(2)(A) A person against whom an order is issued under paragraph (1) may obtain review of such order in the court of appeals of the United States for the circuit in which such person resides or does business, or in the United States Court of Appeals for the District of Columbia Circuit, by--

(i) filing a notice of appeal in such court not later than thirty days after the date of such order; and

(ii) simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall file promptly in such court a certified copy of the record on which such violation was found.

(C) A Finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(3)(A) A person who fails to obey a valid cease and desist

order issued under paragraph (1) by the Secretary, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense.

(B) Each day during which such failure continues shall be considered a separate violation of such order.

(4)(A) If a person fails to pay a valid civil penalty imposed under this subsection by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States.

(B) In such action, the validity and appropriateness of the order imposing such civil penalty shall not be subject to review.

(C) The remedies provided in subsections (a) and (b) shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 9. INVESTIGATIONS: POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS.

(a) Investigations.--The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this Act or determine whether any person subject to the provisions of this Act has engaged or is about to engage in any act that constitutes or will constitute a violation of any provision of this Act, or of any order or regulation issued under this Act.

(b) Power to Subpoena and Take Oaths and Affirmations.--For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of Courts.--In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke that is of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring such person to appear before the Secretary to producer records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

SEC. 10. ADMINISTRATIVE PROVISIONS.

(a) Construction.--Except as provided in paragraph (2), nothing in this Act may be construed to preempt or supersede any

other program relating to soybean promotion, research, or consumer information organized and operated under the laws of the United States or any State.

(2) In order to ensure the proper administration of this Act, not State may conduct a referendum relating to the continuation or termination of a qualified State soybean board during the period beginning on the date an order is issued under section 4 and ending eighteen months after the referendum on such order is conducted under section 6(a): Provided, That such prohibition shall not be construed to apply to a State referendum on approval of modifications to a State soybean promotion that do not involve termination of the qualified State soybean board.

(b) Amendments to Orders.--The provisions of this Act applicable to orders shall be applicable to amendments to orders.

SEC. 11. AUTHORIZATION.

There are hereby authorized to be appropriated annually such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this Act.

SECTION-BY-SECTION ANALYSIS OF H.R. 2209

26 OCTOBER 1989

Section 1--Short title and table of contents

Section provides that the bill may be cited as the "Soybean Promotion, Research, and Consumer Information Act". It also contains a table of contents listing the sections of the bill.

Section 2--Findings and declaration of policy

Section 2, in subsection (a), states the congressional findings that--

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products

are vital to the welfare of soybean producers and processors and those concerned with marketing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are valuable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, consumer information, and industry information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

Section 2, in subsection (b), will declare that it is the policy of Congress that it is in the public interest to authorize the establishment of an orderly procedure for developing, financing through assessments on domestically-produced soybeans, and implementing a program of promotion, research, consumer

information, and industry information designed to strengthen the soybean industry's position in the marketplace, to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products, and to develop new markets and uses for soybeans and soybean products.

Section 2, in subsection (c), will provide that nothing in the bill may be construed to control soybean production or otherwise limit the right of individuals to produce soybeans.

Section 3--Definitions

Section 3 will define terms used in the bill as follows:

(1) the term "Board" to mean the United Soybean Board established under section 5(b,;

(2) the term "commerce" to include interstate, foreign, and intrastate commerce;

(3) the term "consumer information" to mean information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of soybeans or soybean products;

(4) the term "Department" to mean the Department of Agriculture;

(5) the term "first purchaser" to mean any person buying or otherwise acquiring from a producer soybeans produced by such producer, or the Commodity Credit Corporation, in any case in which soybeans are pledged as collateral for a loan issued under

soybean products in domestic and foreign markets, and any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products;

(13) the term "qualified State soybean board" to mean a State soybean promotion entity that is authorized by State law. If no such entity exists in a State, the term "qualified State soybean board" means a soybean producer-governed entity that is organized and operating within a State, that receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs, and that meets criteria established by the Board relating to the qualifications of such entity to perform duties under the order, as determined by the Board, and is recognized by the Board as the soybean promotion and research entity within the State;

(14) the term "research" to mean any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybeans and soybean products;

(15) the term "Secretary" to mean the Secretary of Agriculture;

(16) the term "soybean products" to mean products produced in

whole or in part from soybeans or soybean by-products;

(17) the term "soybeans" to mean all varieties of Glycine max or Glycine soya;

(18) the terms "State" and "United States" to consist of the fifty States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

Section 4--Issuance and amendment of orders

Section 4, in subsection (a), will require the Secretary to issue orders under the bill applicable to producers and first purchasers of soybeans. Any such order must be national in scope. In addition, not more than one order will be in effect under the bill at any one time.

Section 4(b), in paragraph (1), will authorize--

(1) the Secretary to propose the issuance of an order under the bill, or

(2) an association of soybean producers or any other person that would be affected by an order issued pursuant to the bill to request the issuance of, and submit a proposal for, an order.

Section 4(b), in paragraph (2) will require the Secretary to publish a proposed order and give due notice and opportunity for public comment on the proposed order not later than 30 days after the receipt of a request and proposal for an order, or whenever

the Secretary determines to propose an order.

Section 4(b), in paragraph (3), will require the Secretary to issue an order, after notice and opportunity for public comment are given as provided in paragraph 4(b)(2), taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements under the Bill. The order will be issued and become effective not later than 120 days following publication of the proposed order.

Section 4, in subsection (c), will authorize the Secretary from time to time, to amend any order. Except as otherwise provided in sections 5(b)(2)(F) and 5(d)(1), the provisions of the bill applicable to orders will be applicable to amendments to orders.

Section 5--Required terms in orders

Section 5, in subsection (a), will specify the terms and conditions required in any order issued under the bill.

Section 5(b), in paragraph (1), will require the order to provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board must be soybean producers appointed by the Secretary, on a geographic basis, from State or combined units. The cumulative number of seats on the Board will be the total of seats to which all the units are entitled.

Section 5(b), in paragraph (2), will require the Secretary to establish State units and combined units and seats on the Board for such units. Each State will be considered as a unit, unless the State has average annual soybean production of less than 3 million bushels. States with average annual soybean production of less than 3 million bushels will be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3 million bushels must be grouped with other States with average annual soybean production of less than 3 million bushels into a combined unit, in a manner prescribed in the order. Each combined unit must--

(1) to the extent practicable, consist of geographically contiguous States, and

(2) have an average annual production of soybeans of at least 3 million bushels.

Subject to section 5(b)(2)(F), each State or combined unit would be entitled to a specified number of seats on the Board, depending on its average annual soybean production, as follows:

Average annual unit production	Number of Board seats
less than 15,000,000 bushels	1
15,000,000 to 69,999,999 bushels	2
70,000,000 to 199,999,999 bushels	3
200,000,000 bushels or more	4

At the end of each 3 year period beginning with the 3 year

period starting on the effective date of the order, the Secretary, if necessary, must adjust any unit to conform with sections 5(b)(2)(A) and 5(b)(2)(B) and any modifications pursuant to section 5(b)(2)(F). If the Secretary makes such an adjustment, the Secretary must re-establish the seats on the board to conform with section 5(b)(2)(C) and any modifications pursuant to section 5(b)(2)(F).

For purposes of establishing units and seats on the Board and adjusting such units and seats, the Secretary will determine average annual soybean production applicable to a crop year by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

In addition, section 5(b)(2), will authorize the Board to recommend to the Secretary, at the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, to the extent it determines appropriate, changes in the levels of production used in sections 5(b)(2)(A), 5(b)(2)(B), and 5(b)(2)(C) in determining per-unit representation on the Board. The Secretary may amend the order to make the recommended changes in levels of production used to determine per-unit representation. This amendment to the order--

(1) will not be subject to a referendum of producers, and

(2) may not result in a unit losing Board seats to which it was entitled at the time the order was initially issued

unless its average annual production (determined by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the lowest), declines below the initial levels required for representation.

Section 5(b)(3), in subparagraph (A), will require the Secretary to appoint soybean producers to seats established under section 5(b)(2) from nominations submitted by each unit. Each unit must submit to the Secretary at least 2 nominations for each appointment to the Board to which the unit is entitled.

Section 5(b)(3), in subparagraph (B), will require the Secretary to solicit nominations for each seat on the initially-established Board as follows:

(1) Nominations for each seat to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of section 3(13) of the bill. If no such organization exists in the unit, the Secretary will solicit nominations for appointments in such manner as the Secretary determines appropriate.

(2) Nominations for each seat to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits satisfactory evidence to the Secretary that such

board meets the criteria of section 3(13) of the bill.

Section 5(b)(3), in subparagraph (C), will require the Secretary to solicit nominations for each subsequent appointment to a seat on the Board as follows:

(1) Nominations for each seat to which a State unit is entitled will be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary will solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(2) Nominations for each seat to which to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

Section 5(b), in paragraph (4), will allow the Secretary to reject any nomination submitted by a unit. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit will submit additional nominations, as provided in section 5(b)(3).

Section 5(b), in paragraph (5), will require the Secretary to ensure, to the extent practicable, that at least 5 of the members appointed to the Board are members in good standing, and were members for at least 3 years prior to appointment to the Board, of a national general farm organizations. Each of the 5 members must be members of a different national general farm

organization.

Section 5(b), in paragraph (6), will require each appointment to the Board to be for a term of 3 years, except that appointments to the initially-established Board will be proportionately for 1 year, 2 year, and 3 year terms. No person may serve more than 3 three-year terms. Board members will serve without compensation, but will be reimbursed by the Board for their reasonable expenses incurred in performing their duties as members of the Board.

Section 5(b), in paragraph (7), will allow the Secretary, as the Secretary determines appropriate for transition purposes and under procedures established by the Secretary, to appoint to the initially-established Board up to 3 temporary members to serve in addition to the members appointed as otherwise provided in section 5(b). Each such temporary member shall be appointed for a single term not to exceed 3 years. The Secretary will make these temporary appointments to the initially established Board to ensure, to the extent practicable, that each State with a State soybean board that, prior to the enactment of the bill, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

Section 5(b), in paragraph (8), will provide that the order

must require the Board to hold at least one meeting annually and specify the circumstances in which additional special meetings of the Board may be held.

Section 5, in subsection (c), will provide that the order must define powers and duties of the Board and include the following powers or duties:

(1) to administer the order in accordance with its terms and provisions;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to elect members of the Board to serve on committees;

(4) to submit budgets to the Secretary for the Secretary's approval or disapproval;

(5) to contract with appropriate persons to implement plans or projects;

(6) to contract with qualified State soybean boards to implement programs in their States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order;

(8) to provide the Secretary with prior notice of meetings of the Board to allow the Secretary, or a designated representative, to attend such meetings;

(9) to recommend to the Secretary amendments to the order;

(10) to provide at least annually a report to producers accounting for funds and describing programs implemented and

make such report available to the public upon request; and

(11) to ensure, in carrying out the order, that the development of the budget and activities conducted under the order do not cause a duplication of efforts of, or ineffective use of resources under, any other soybean promotion, research, consumer information, or industry information program on the State or national level.

Section 5(d), in paragraph (1), order shall establish procedures for the conduct of voting by the Board, as specified in section 5(d). At the end of the 3 year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in such procedures for the conduct of voting by the Board, and the Secretary may amend the order to make the recommended changes in voting procedures. This amendment to the order will not be subject to a referendum of producers.

Section 5(d), in paragraph (2), will provide that each member of the Board will be entitled, in any vote conducted by the Board, to cast one vote unless a roll call vote is conducted. On a roll call vote, each member will be entitled to cast additional votes that are assigned to the member and computed as follows:

(1) Each unit will be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit, net of any refunds made under section (j)(2), on the average,

during each of the 3 previous fiscal years of the Board. However, during the first fiscal year of the Board, each unit will be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the 3 immediately preceding crop years. The order will provide appropriate adjustments of the procedure for the allotment of votes during the second and third fiscal years of the Board.

(2) A unit's total votes will be divided equally among all the members representing that unit. The procedures established by the order will provide for the equitable disposition of fractional votes assigned to a member under a division of a unit's votes.

Section 5, in paragraph (3), will require that a motion must carry if approved by a simple majority of members of the Board casting votes. However, any member of the Board may call for a roll call vote on any motion and except as otherwise provided in the bylaws adopted by the Board, whenever a roll call vote is conducted, the motion will carry only if approved by a simple majority of all votes cast and a simple majority of all units voting, with the vote of each unit determined by a simple majority of all votes cast by members in that unit.

Section 5(d), in paragraph (4), will require, in any vote conducted by a committee of the Board, each member of the

committee to have one vote.

Section 5(d), in paragraph (5) will prohibit members from casting votes by proxy.

Section 5, in subsection (e), will provide that the order must require the Board to develop budgets on a fiscal year basis of anticipated expenses and disbursements under the order, including probable costs of administration, advertising, other promotion, research, consumer information, and industry information projects. The Board must submit these budgets or any substantial modification thereof to the Secretary for the Secretary's approval. In approving or disapproving such budget or modification, the Secretary must, among other considerations, ensure that the activities conducted under the order do not cause a duplication of efforts of, or ineffective use of resources under, any other soybean promotion, research, consumer information, or industry information program on the State or national level. The Secretary must approve or disapprove each budget or modification shall within 45 days after the Secretary receives the budget or modification. No expenditure of funds may be made by the Board unless the expenditure is authorized under a budget or modification approved by the Secretary.

Section 5, in subsection (f), will require the order to provide that the Board must review or, on its own initiative, develop plans or projects of advertising, other promotion, research, consumer information, and industry information

activities, to be paid for with funds received by the Board.

Section 5(g), in paragraph (1), will require the order to provide that the Board must be responsible for all expenses of the Board.

Section 5(g), in paragraph (2), will require the order to provide that the Board may establish an administrative staff or facilities of its own or contract for the use of the staff and facilities of national, nonprofit, producer-governed organizations that represent producers of soybeans. If the Board establishes a personnel staff of its own, the staff will be responsible only for collection, compliance, and other administrative services of the Board, and the Board may only expend for administrative staff salaries and benefits an amount not to exceed one percent of the net amount of assessments collected by the Board in any fiscal period. If the staff of national, nonprofit, producer-governed organizations that represent producers of soybeans are used by the Board, the staff of such organizations will not receive compensation directly from the Board, but such organizations will be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of, and authorized by, the Board.

Section 5(g), in paragraph (3), to ensure coordination and prevent duplication, will prohibit the Board from establishing its own personnel staff for the purpose of administering or

There will not be in force, at any one time, more than one contract or agreement for implementation of plans or projects for consumer information, for industry information, for promotion, or for research.

Section 5(h), in paragraph (3), will require any contract or agreement to provide that--

(1) the contracting party must develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(2) the plan or project must not become effective unless it has been approved by the Secretary, and

(3) the contracting party must keep accurate records of all of its transactions, account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

Section 5, in subsection (i), will provide that the order must require the Board to--

(1) maintain such books and records, which will be available to the Secretary for inspection and audit, as the Secretary may prescribe,

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

In addition, the Board will have its books and records audited by an independent auditor at the end of each fiscal year and will submit a report of the audit to the Secretary. The Secretary will make such report available to the public upon request.

Section 5(j), in paragraph (1), will require the order to provide that each first purchaser of soybeans from a producer must collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. The Board must use qualified State soybean boards to collect such assessments from first purchasers in States in which such boards operate. The rate of assessment prescribed by the order will be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser and no more than one assessment will be made with respect to any particular soybeans.

In addition, the order will provide that any person processing soybeans of that person's own production and marketing the soybeans or soybean products made from those soybeans must remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in section 5(j)(1)(A)(ii).

Section 5(j), in paragraph (2), will require the order to

provide that, during the period prior to the approval of the continuation of the order in the referendum provided for in section 5(a), as determined by the Secretary, each producer must have the right to demand and receive from the Board a refund of any assessment collected from such producer if the producer is responsible for paying the assessment, and the producer does not support the programs, projects, or activities implemented under the order. Any demand by a producer for a refund of an assessment must be made in accordance with regulations, on a form, and within the time period, not to exceed 90 days from the date of collection, prescribed by the Board. However, in each State in which a qualified State soybean board collects assessments producers will submit demands for refunds of assessments to the qualified State soybean board. Such board will process such submissions under procedures established by State statute applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State statute, the submissions will be processed under procedures established under section 5(j)(2). In each State in which there is no qualified State soybean board, producers will submit demands for refunds of assessments directly to the Board. Except a provided by refund procedures under State statutes, each refund to a producer of an assessment must be made as soon as practicable, but in no case more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid

the assessment for which refund is demanded.

Section 5(j), in paragraph (3), will require the assessments to be used for payment of the expenses incurred in implementation and administration of the order, the establishment of a reasonable reserve, and reimbursement to the Secretary of administrative costs incurred by the Secretary after the order has been proposed.

Section 5(j), in paragraph (4), will require that a producer who can establish that such producer is contributing to a qualified State soybean board must receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as appropriate to ensure effective coordination of collection procedures among States.

Section 5(j), in paragraph (5), will require that the procedures in the order for the collection of assessments must ensure, to the extent practicable, that the soybeans are subject to a single process of assessment under the order.

Section 5, in subsection (k), will require the order to

provide that the Board may provide a credit against the amount of collected assessments due from each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by a State statute enacted prior to the date of enactment of the bill. Any credit provided to any qualified State soybean board under section 5(k) may not exceed 2.5 percent of the amount of assessments collected and remitted to the Board under section 5(j).

Section 5, in subsection (l), will require the order to contain provisions to ensure that--

(1) during the period prior to conduct of the referendum provided for in section 6(a), each qualified State soybean board retains annually an amount of money equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988, excluding the years in which such collections were the highest and lowest, as determined by the Secretary;

(2) effective after the conduct of the referendum provided for in section 6(a), the Board annually provide a credit to each qualified State soybean board of an amount by which the amount equal to one cent times the average number of bushels of soybeans produced in the State during each of the

preceding 5 years, excluding the year in which the production is the highest and lowest, exceeds the total amount collected by the qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under section 5(j). However, the total amount of assessment funds retained by a qualified State soybean board under sections 5(l)(1), 5(l)(2) and 5(j)(4) for a year may not exceed the total amount of assessments collected in the State under section 5(j), net of any refunds made under section 5(j)(2), in that year.

Section 5, in subsection (m), will provide that order will allow the Board, with the approval of the Secretary, to invest funds received by the Board under the order, pending their disbursement, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Income from any such investment may be used only for such purposes as the invested funds may be used.

Section 5, in subsection (n), will require the order to prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing any action or policy of the United States Government, any foreign or

State government, or any political subdivision thereof. However, this prohibition does not apply to--

(1) the development and recommendation of amendments to the order;

(2) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, and industry information under the order; or

(3) any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof.

Section 5(o), in paragraph (1), will provide that the order must require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. The order must exempt small producers processing soybeans of their own production from such recordkeeping and reporting requirements if they are not required to pay assessments under the order.

Section 5(o), in paragraph (2), will require that information maintained under section 5(o)(1) must be made available to the Secretary as is appropriate for the administration or enforcement of the bill, or any order or regulation issued under the bill. In addition, the Secretary

must authorize the use under the bill of information regarding first purchasers that is accumulated under a law or regulation other than the bill or regulations under the bill.

Section 5(o), in paragraph (3), will require commercial or financial information obtained under sections 5(o)(1) and 5(o)(2) and that is privileged or confidential to be kept confidential by all officers and employees of the Department and agents of the Board. However, information obtained under the authority of the bill must be made available to any agency or officer of the Federal Government for--

(1) the implementation of the bill;

(2) any investigatory or enforcement action necessary for the implementation of the bill; or

(3) any civil or criminal law enforcement activity if the activity is authorized by law.

Section 5(o), in paragraph (4), will provide that any person who intentionally or knowingly violates the provisions of section 5(o), upon conviction, will be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and if an agent of the Board or an officer or employee of the Department, must be removed from office.

Section 5, in subsection (p), will require the order to provide terms and conditions, not inconsistent with the provisions of the bill, as necessary to effectuate the provisions of the order, including provisions for the assessment of a

penalty for each late payment of assessments under section 5(j).

Section 6--Referenda

Section 6, in subsection (a), not earlier than 18 months or later than 36 months following the issuance of an order under section 4, will require the Secretary to conduct a referendum for the purpose of ascertaining whether the order then in effect will be continued. The referendum will be conducted among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans. The order will be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum. If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary must terminate the collection of assessments under the order within 6 months after the referendum and must terminate the order in an orderly manner as soon as practicable.

Section 6, in subsection (b), after the initial referendum on an order, will require the Secretary to conduct additional referenda, if requested by a representative group of producers. An additional referendum on an order must be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth are producers in any one State, as determined by the

Secretary. Each additional referendum must be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order. If the Secretary determines that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary must suspend or terminate, as appropriate, collection of assessments under the order within 6 months after such determination and must suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

In addition, to facilitate the periodic determination as to whether producers favor the conduct of an additional referendum, the Secretary, 5 years after the conduct of a referendum under section 6 and every 5 years thereafter for as long as an order is in effect, must provide soybean producers an opportunity to request an additional referendum. The Secretary must establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices during a period established by the Secretary, or in lieu of making such requests in person, producers may make requests by mail. Mail-in requests must be postmarked no later than the end of the period established for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers. The Secretary must publish

a notice in the Federal Register, and the Board must provide written notification to producers, not later than 60 days prior to the end of the period established for in-person requests, of the producers' opportunity to request the additional referendum. Such notification must explain the producers' rights to, and the procedures for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers can act to request the additional referendum. The Secretary must take such other actions as the Secretary determines necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order. As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary must determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum. Any additional referendum requested under the procedures provided in section 6(b)(3) must be conducted not later than one year after the Secretary determines that a representative group of producers have requested the conduct of such referendum.

Section 6, in subsection (c), will require the Secretary to be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required section 6, except for the salaries of Government employees.

In addition, section 6(c) will require each referendum to be conducted for a reasonable period (not to exceed 3 days) established by the Secretary, under a procedure whereby producers intending to vote in the referendum will certify that they were engaged in the production of soybeans during the representative period and, at the same time, will be provided an opportunity to vote in the referendum. Referenda must be conducted at county extension offices and provision must be made for absentee mail ballots to be provided upon request.

Section 7--Petition and review

Section 7, in subsection (a), will authorize any person subject to an order issued under the bill to file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner must be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary. After the hearing, the Secretary will make a ruling on the petition, which will be final if in accordance with law.

Section 7, in subsection (b), will vest the district courts of the United States in any district in which a person who is a petitioner under section 7(a) resides or carries on business with jurisdiction to review the ruling on such person's petition, if a

complaint for that purpose is filed within twenty days after the date of the entry of a ruling by the Secretary under section 7(a). Service of process in such proceedings may be conducted on the Secretary by delivering a copy of the complaint to the Secretary, under such rules or regulations as deemed necessary by the Secretary to facilitate the service of process. If the court determines that the ruling is not in accordance with law, the court will remand the matter to the Secretary with directions either to make such ruling as the court shall determine to be in accordance with law, or to take such further action as, in the opinion of the court, the law requires.

Section 8--Enforcement

Section 8, in subsection (a), will provide that each district court of the United States will have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under the bill. A civil action authorized to be brought under section 8(a) must be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation if the Secretary believes that the administration and enforcement of the bill would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by administrative action under section 8(b).

and simultaneously sending a copy of the notice by certified mail to the Secretary. The Secretary must file promptly in the court a certified copy of the record on which the Secretary found that the person had committed a violation. A finding of the Secretary will be set aside only if the finding is found to be unsupported by substantial evidence. A person who fails to obey a valid cease and desist order issued by the Secretary, after an opportunity for a hearing, will be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense. Each day during which such failure continues will be considered a separate violation of the order.

If a person fails to pay a valid civil penalty imposed under section 8(b) by the Secretary, the Secretary must refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business. In such action, the validity and appropriateness of the order imposing the civil penalty will not be subject to review.

Section 8, in subsection (c), will provide that the remedies provided in section 8(a) and 8(b) will be in addition to, and not exclusive of, other remedies that may be available.

Section 9--Investigations; power to subpoena and take oaths and affirmations; aid of courts

Section 9, in subsection (a), will allow the Secretary to

make such investigations as the Secretary deems necessary--

(1) for the effective administration of the bill, or

(2) to determine whether any person subject to the provisions of the bill has engaged or is about to engage in any act that constitutes or will constitute a violation of any provision of the bill, or of any order or regulation issued under the bill.

Section 9, in subsection (b), for the purpose of any such investigation, will authorize the Secretary to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

Section 9, in subsection (c), in case of contumacy by, or refusal to obey a subpoena to, any person, will authorize the Secretary to invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of such person or the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any

such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

Section 10--Administrative provisions

Section 10 will provide that nothing in the bill may be construed to preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State. However, in order to ensure the proper administration of the bill, any provision of State law automatically requiring a State referendum relating to the continuation or termination of a qualified State soybean board shall, to the extent it automatically requires such a referendum, be suspended for the period beginning on the date an order is issued under section 4 and ending 18 months after the referendum on such order is conducted under section 6(a). The suspension will not apply to any State referendum regarding a State soybean promotion program that is originated by soybean producers. In addition, in order to ensure adequate funding of the operations of qualified State soybean boards under the bill, whenever an order is in effect under the bill, no State law or regulation that limits the rate of assessment that the qualified State soybean board in the State may collect from producers on soybeans produced in such State, or that has the effect of limiting such

rate, may be applied to prohibit such State board from collecting, and expending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 5(j)(4).

Section 11--Regulations

Section 11 will authorize the Secretary to make such regulations as may be necessary to carry out the provisions of the bill.

Section 12--Authorization

Section 12 will authorize to be appropriated annually such funds as are necessary to carry out the provisions of the bill. The funds so appropriated will not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under the bill.

AMENDMENT IN THE NATURE OF A SUBSTITUTE

TO H.R. 2209

OFFERED BY MR. GLICKMAN

OCTOBER 26, 1989

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

(b) Table of Contents.--The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and declaration of policy.
Sec. 3. Definitions.
Sec. 4. Issuance and amendments of orders.
Sec. 5. Required terms in orders.
Sec. 6. Referenda.
Sec. 7. Petition and review.
Sec. 8. Enforcement.
Sec. 9. Investigations; power to subpoena and take oaths and affirmations; aid of courts.
Sec. 10. Administrative provisions.
Sec. 11. Regulations.
Sec. 12. Authorization.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) Findings.--Congress finds that--

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by

people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and processors and those concerned with marketing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are valuable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, consumer information, and industry information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and

foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) Policy.--Congress declares that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for developing, financing through assessments on domestically-produced soybeans, and implementing a program of promotion, research, consumer information, and industry information designed to strengthen the soybean industry's position in the marketplace, to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products, and to develop new markets and uses for soybeans and soybean products.

(c) Construction.--Nothing in this Act may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "Board" means the United Soybean Board established under section 5(b) of this Act.

(2) The term "commerce" includes interstate, foreign, and intrastate commerce.

(3) The term "consumer information" means information that will assist consumers and other persons in making evaluations and

decisions regarding the purchase, preparation, and use of soybeans or soybean products.

(4) The term "Department" means the Department of Agriculture.

(5) The term "first purchaser" means--

(A) except as provided in subparagraph (B), any person buying or otherwise acquiring from a producer soybeans produced by such producer, or

(B) the Commodity Credit Corporation, in any case in which soybeans are pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation.

(6) The term "industry information" means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the soybean industry, and activities to enhance the image of the soybean industry.

(7) The term "marketing" means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(8) The term "net market price" means--

(A) except as provided in subparagraph (B), the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors, or

(B) for soybeans pledged as collateral for a loan issued under any price support loan program administered by the

Commodity Credit Corporation, the principal amount of the loan.

(9) The term "order" means an order issued under section 4.

(10) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) The term "producer" means any person engaged in the growing of soybeans in the United States who owns, or who shares the ownership and risk of loss of, such soybeans.

(12) The term "promotion" means any action, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans or soybean products in domestic and foreign markets, and any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products.

(13) The term "qualified State soybean board" means a State soybean promotion entity that is authorized by State law. If no such entity exists in a State, the term "qualified State soybean board" means a soybean producer-governed entity--

(A) that is organized and operating within a State,

(B) that receives voluntary contributions and conducts soybean promotion, research, consumer information, or

industry information programs, and

(C) that meets criteria established by the Board relating to the qualifications of such entity to perform duties under the order, as determined by the Board, and is recognized by the Board as the soybean promotion and research entity within the State.

(14) The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybeans and soybean products.

(15) The term "Secretary" means the Secretary of Agriculture.

(16) The term "soybean products" means products produced in whole or in part from soybeans or soybean by-products.

(17) The term "soybeans" means all varieties of Glycine max or Glycine soya.

(18) The terms "State" and "United States" consist of the fifty States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 4. ISSUANCE AND AMENDMENT OF ORDERS.

(a) In General.--To effectuate the declared policy of section 2(b) of this Act, the Secretary, subject to the

procedures provided in subsection (b), shall issue orders under this Act applicable to producers and first purchasers of soybeans. Any such order shall be national in scope, and not more than one order shall be in effect under this Act at any one time.

(b) Procedure.--(1) The Secretary may propose the issuance of an order under this Act, or an association of soybean producers or any other person that would be affected by an order issued pursuant to this Act may request the issuance of, and submit a proposal for, such an order.

(2) Not later than 30 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements under this Act. Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

(c) Amendments.--The Secretary, from time to time, may amend any order issued under this section. Except as otherwise provided in sections 5(b)(2)(F) and 5(d)(1), no amendment to an

order shall be effective until approved by a referendum of soybean producers and the provisions of this Act applicable to orders shall be applicable to amendments to orders.

SEC. 5. REQUIRED TERMS IN ORDERS.

(a) In General--Any order issued under this Act shall contain the terms and conditions specified in this section.

(b) Establishment and Membership of the United Soybean Board.--(1) The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State or combined units, as provided in this subsection. The cumulative number of seats on the Board shall be the total of seats to which all the units are entitled.

(2) The Secretary shall establish State units and combined units and seats on the Board for such units, as follows:

(A) Except as provided in subparagraph (B), each State shall be considered as a unit.

(B) A State in which average annual soybean production is less than 3 million bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3 million bushels shall be grouped with other States with average annual soybean production of less than 3

million bushels into a combined unit, in a manner prescribed in the order, and each combined unit shall consist of geographically contiguous States. Each combined unit shall have an average annual production of soybeans of at least 3 million bushels.

(C) Subject to subparagraph (F), each unit, as established under subparagraph (A) or (B)--

(i) if its average annual soybean production is less than 15 million bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is 15 million bushels or more but less than 70 million bushels, shall be entitled to 2 seats on the Board;

(iii) if its average annual soybean production is 70 million bushels or more but less than 200 million bushels, shall be entitled to 3 seats on the Board; and

(iv) if its average annual soybean production is 200 million bushels or more, shall be entitled to 4 seats on the Board.

(D) At the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any unit to conform with subparagraphs (A) and (B) and any modifications pursuant to paragraph (F). If the Secretary makes such an adjustment, the Secretary shall re-establish the seats on

each unit. Each unit shall submit to the Secretary at least 2 nominations for each appointment to the Board to which such unit is entitled.

(B)(i) The Secretary shall solicit nominations for each seat on the initially-established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of section 3(13) of this Act. If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(ii) The Secretary shall solicit nominations for each seat on the initially-established Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any State soybean board operating in the unit that submits satisfactory evidence to the Secretary that such board meets the criteria of section 3(13) of this Act.

(C)(i) The Secretary shall solicit nominations for each subsequent appointment to a seat on the Board to which a State unit is entitled from the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(ii) The Secretary shall solicit nominations for each

subsequent appointment to a seat on the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(4) The Secretary may reject any nomination submitted by a unit. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit shall submit additional nominations, as provided in paragraph (3).

(5) The Secretary shall ensure, to the extent practicable, that at least 5 of the members appointed to the Board are members in good standing, and were members for at least 3 years prior to appointment to the Board, of a national general farm organizations. Each of the 5 members shall be members of a different national general farm organization.

(6) Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially-established Board shall be proportionately for 1 year, 2 year, and 3 year terms. No person may serve more than 3 three-year terms. Board members shall serve without compensation, but shall be reimbursed by the Board for their reasonable expenses incurred in performing their duties as members of the Board.

(7)(A) Notwithstanding the foregoing provisions of this subsection, the Secretary, under procedures established by the Secretary, may appoint to the initially-established Board up to 3

temporary members to serve in addition to the members appointed as otherwise provided in this subsection, as the Secretary determines appropriate for transition purposes under the criteria set out in subparagraph (B). Each such temporary member shall be appointed for a single term not to exceed 3 years.

(B) The Secretary shall make temporary appointments to the initially established Board to ensure, to the extent practicable, that each State with a State soybean board that, prior to the enactment of this Act, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

(8) The order shall provide for at least one meeting of the Board annually and specify the circumstances in which additional special meetings of the Board may be held.

(c) Powers and Duties of the Board.--The order shall define the powers and duties of the Board and shall include the following powers or duties:

(1) to administer the order in accordance with its terms and provisions;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) to elect members of the Board to serve on committees;

(4) to submit budgets to the Secretary for the Secretary's

approval or disapproval;

(5) to contract with appropriate persons to implement plans or projects;

(6) to contract with qualified State soybean boards to implement programs in their States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order;

(8) to provide the Secretary with prior notice of meetings of the Board to allow the Secretary, or a designated representative, to attend such meetings;

(9) to recommend to the Secretary amendments to the order;

(10) to provide at least annually a report to producers accounting for funds and describing programs implemented and make such report available to the public upon request; and

(11) to ensure, in carrying out the order, that the development of the budget and activities conducted under the order do not cause a duplication of efforts of, or ineffective use of resources under, any other soybean promotion, research, consumer information, or industry information program on the State or national level.

(d) Board Voting Procedures.--(1) The order shall establish procedures for the conduct of voting by the Board, as specified in this subsection. At the end of the 3 year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in such procedures for the conduct of voting by

the Board, and the Secretary may amend the order to make such recommended changes in voting procedures. Such amendment to the order shall not be subject to a referendum of producers.

(2) Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) Each member shall be entitled to cast one vote unless a roll call vote is conducted. On a roll call vote, each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) The additional votes that each member is assigned for roll call votes shall be computed as follows:

(i) Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of assessments remitted to the Board that was remitted from the unit, net of any refunds made under subsection (j)(2), on the average, during each of the 3 previous fiscal years of the Board.

(ii)(I) During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the 3 immediately preceding crop years.

(II) The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) A unit's total votes under clause (i) or (ii) shall be divided equally among all the members representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's votes.

(3)(A) Except as provided in subparagraph (B), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) Any member of the Board may call for a roll call vote on any motion. Except as otherwise provided in the bylaws adopted by the Board, whenever a roll call vote is conducted, the motion shall carry only if approved by a simple majority of all votes cast and a simple majority of all units voting, with the vote of each unit determined by a simple majority of all votes cast by members in that unit.

(4) In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) A member may not cast votes by proxy.

(e) Budgets.--The order shall provide that the Board shall develop budgets on a fiscal year basis of anticipated expenses

and disbursements under the order, including probable costs of administration, advertising, other promotion, research, consumer information, and industry information projects. The Board shall submit such budgets or any substantial modification thereof to the Secretary for the Secretary's approval. In approving or disapproving such budget or modification, the Secretary shall, among other considerations, ensure that the activities conducted under the order do not cause a duplication of efforts of, or ineffective use of resources under, any other soybean promotion, research, consumer information, or industry information program on the State or national level. Each such budget or modification shall be approved or disapproved by the Secretary within 45 days after the Secretary receives the budget or modification. No expenditure of funds may be made by the Board unless such expenditure is authorized under a budget or modification approved by the Secretary.

(f) Plans and Projects.--The order shall provide that the Board shall review or, on its own initiative, develop plans or projects of advertising, other promotion, research, consumer information, and industry information activities, to be paid for with funds received by the Board.

(g) Administration.--(1) The order shall provide that the Board shall be responsible for all expenses of the Board.

(2)(A) The order shall provide that the Board may establish an administrative staff or facilities of its own or contract for

the use of the staff and facilities of national, nonprofit, producer-governed organizations that represent producers of soybeans.

(B) If the Board establishes a personnel staff of its own, such staff shall be responsible only for collection, compliance, and other administrative services of the Board, and the Board is authorized to expend for administrative staff salaries and benefits an amount not to exceed one percent of the net amount of assessments collected by the Board in any fiscal period.

(C) If the staff of national, nonprofit, producer-governed organizations that represent producers of soybeans are used by the Board, the staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of, and authorized by, the Board.

(3) To ensure coordination and prevent duplication, the Board may not establish its own personnel staff for the purpose of administering or implementing plans or projects approved by the Secretary.

(4) The order shall provide that costs incurred by the Board in administering the order (including the cost of staff but not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 percent of the projected level of revenues to the Board net of any refunds made under subsection

(j)(2) for that fiscal year.

(h) Contracts and Agreements.--(1) To ensure coordination and efficient use of funds, the order shall provide that the Board shall enter into contracts or agreements for the implementation and carrying out of the activities authorized by this Act with national, nonprofit, producer-governed organizations that represent producers of soybeans, and for the payment thereof with funds received by the Board under the order.

(2) To enhance coordination, the Board, when entering into contracts or agreements for the implementation and carrying out of activities authorized by this Act, shall ensure that all plans or projects implemented for consumer information, industry information, promotion, or research are implemented by a single national, nonprofit, producer-governed organization that represents producers of soybeans. There shall not be in force, at any one time, more than one contract or agreement for implementation of plans or projects for consumer information, for industry information, for promotion, or for research, except that, upon approval of the Secretary, the Board may contract with qualified State soybean boards to implement plans or projects within their respective States.

(3) Any such contract or agreement shall provide that--

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets

that shall show estimated costs to be incurred for such plan or project:

(B) the plan or project shall not become effective unless it has been approved by the Secretary, and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(i) Books and Records of the Board.--The order shall require the Board to--

(1) maintain such books and records, which shall be available to the Secretary for inspection and audit, as the Secretary may prescribe,

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe, and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year and a report of such audit to be submitted to the Secretary. The Secretary shall make such report available to the public upon request.

(j) Assessments.--(1)(A)(i) The order shall provide that each first purchaser of soybeans from a producer shall collect,

in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments from first purchasers in States in which such boards operate.

(ii) The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser.

(iii) No more than one assessment shall be made with respect to any particular soybeans.

(B) The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2)(A) The order shall provide that, during the period prior to the approval of the continuation of the order in the referendum provided for in section 6(a), as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if--

(i) such producer is responsible for paying the assessment; and

(ii) such producer does not support the programs, projects, or activities implemented under the order.

(B) Subject to the provisions of subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period, not to exceed 90 days from the date of collection, prescribed by the Board.

(C)(i) In each State in which a qualified State soybean board collects assessments, as provided in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board. Such board shall process such submissions under procedures established by State statute applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State statute, such submissions shall be processed under procedures established under this paragraph.

(ii) In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

(D) Subject to the provisions of subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no case more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(3) The assessments shall be used for payment of the expenses incurred in implementation and administration of the

order, the establishment of a reasonable reserve, and reimbursement to the Secretary of administrative costs incurred by the Secretary after the order has been proposed.

(4) A producer who can establish that such producer is contributing to a qualified State soybean board shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as appropriate to ensure effective coordination of collection procedures among States.

(5) The procedures in the order for the collection of assessments shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order.

(k) Credit for Certain Costs to States.--The order shall provide that the Board may provide a credit against the amount of collected assessments due from each qualified State soybean board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State

soybean board is required by State statute enacted prior to the date of enactment of this Act. Any credit provided to any qualified State soybean board under this subsection may not exceed 2.5 percent of the amount of assessments collected and remitted to the Board under subsection (j).

(l) Minimum Level of Assessments to States.--(1) The order shall contain provisions to ensure that, during the period prior to conduct of the referendum provided for in section 6(a), each qualified State soybean board retains annually an amount of money equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988, excluding the year in which such collections were the highest and the year in which such collections were the lowest, as determined by the Secretary and subject to paragraph (3).

(2) The order shall provide, effective after the conduct of the referendum provided for in section 6(a), subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which--

(A) the amount equal to one cent times the average number of bushels of soybeans produced in the State during each of the preceding 5 years, excluding the year in which the production is the highest and the year in which the production is the lowest, exceeds

(B) the total amount collected by the qualified State

soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (j).

(3) The total amount of assessment funds retained by a qualified State soybean board under paragraph (1) or (2) and subsection (j)(4) for a year may not exceed the total amount of assessments collected in the State under subsection (j), net of any refunds made under paragraph (2) of subsection (j), in that year.

(m) Investment of Funds.--The order shall provide that the Board, with the approval of the Secretary, may invest funds received by the Board under the order, pending their disbursement, only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States. Income from any such investment may be used only for such purposes as the invested funds may be used.

(n) Prohibition.--(1) Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing any action or policy of the United States Government, any foreign or State government, or any political

subdivision thereof.

(2) The prohibition in paragraph (1) shall not apply to--

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, and industry information under the order; or

(C) any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof.

(o) Books and Records of First Purchasers and Certain Producers.--(1) The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. The order shall exempt small producers processing soybeans of their own production from such recordkeeping and reporting requirements if they are not required to pay assessments under the order.

(2)(A) Information maintained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement of this Act, or any order or regulation issued under this Act.

(B) The Secretary shall authorize the use under this Act of information regarding first purchasers that is accumulated under a law or regulation other than this Act or regulations under this Act.

(3)(A) Commercial or financial information obtained under paragraph (1) and (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department and agents of the Board, subject to the provisions of subparagraph (B).

(B) Information obtained under the authority of this Act shall be made available to any agency or officer of the Federal Government for--

(i) the implementation of this Act;

(ii) any investigatory or enforcement action necessary for the implementation of this Act; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(4) Any person who intentionally or knowingly violates the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and if an agent of the Board or an officer or employee of the Department, shall be removed from office.

(p) Incidental Terms and Conditions.--The order shall provide terms and conditions, not inconsistent with the

provisions of this Act, as necessary to effectuate the provisions of the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (j).

SEC. 6 REFERENDA.

(a) Initial Referendum.--Not earlier than 18 months or later than 36 months following the issuance of an order under section 4 of this Act, the Secretary shall conduct a referendum for the purpose of ascertaining whether the order then in effect shall be continued. Such referendum shall be conducted among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans. Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum. If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate the collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) Additional Referenda.--(1)(A) After the initial referendum on an order, the Secretary shall conduct additional referenda, as described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth are producers in any one State, as determined by the Secretary.

(C) Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

(2) If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 6 months after such determination and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

(3)(A) To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this section and every 5 years thereafter for as long as an order is in effect, shall provide soybean producers an opportunity to request an additional referendum, as

provided in this paragraph.

(B)(i) To implement the requirements of subparagraph (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices during a period established by the Secretary, or as provided in clause (ii).

(ii) In lieu of making such requests in person, producers may make requests by mail. Mail-in requests must be postmarked no later than the end of the period established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notification shall explain the producers' rights to, and the procedures specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers can act to request the additional referendum under this paragraph. The Secretary shall take such other actions as the Secretary determines necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as required under paragraph (1).

(E) Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than one year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) Procedures.--(1) The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under this section, except for the salaries of Government employees.

(2) Each referendum shall be conducted for a reasonable period (not to exceed 3 days) established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided upon request.

SEC. 7. PETITION AND REVIEW.

(a) Petition.--Any person subject to an order issued under this Act may file with the Secretary a petition stating that such order, any provision of such order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) Review.--The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within twenty days after the date of the entry of a ruling by the Secretary under subsection (a). Service of process in such proceedings may be conducted on the Secretary by delivering a copy of the complaint to the Secretary, under such rules or regulations as deemed necessary by the Secretary to facilitate such service of process. If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such

further action as, in the opinion of the court, the law requires.

SEC. 8. ENFORCEMENT.

(a) In General.--(1) Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this Act.

(2) A civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation if the Secretary believes that the administration and enforcement of this Act would be adequately served by providing a suitable written notice or warning to the person who committed such violation or by administrative action under subsection (b).

(b) Administrative Remedies.--(1)(A) A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary--

(i) a civil penalty of not more than $1,000 for each such violation; and

(ii) in the case of a willful failure to pay, collect, or remit an assessment as required by the order, an additional penalty equal to the amount of such assessment.

(B) Each such violation shall be a separate offense.

(C) In addition to or in lieu of such civil penalty, the

Secretary may issue an order requiring such person to cease and desist from violating such order or regulation.

(D) No order assessing a penalty or cease and desist order may be issued by the Secretary under this paragraph unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record with respect to such violation.

(E) An order assessing a penalty or cease and desist order issued under this paragraph by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from such order with the appropriate district court of the United States, as provided in paragraph (2), not later than 30 days after such person receives notice of such order.

(2)(A) A person against whom an order is issued under paragraph (1) may obtain review of such order in the district court of the United States for the district in which such person resides or does business, or in the United States district court for the District of Columbia, by--

(i) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(ii) simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall file promptly in such court a certified copy of the record on which the Secretary found that

the person had committed a violation.

(C) A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(3)(A) A person who fails to obey a valid cease and desist order issued under paragraph (1) by the Secretary, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense.

(B) Each day during which such failure continues shall be considered a separate violation of such order.

(4)(A) If a person fails to pay a valid civil penalty imposed under this subsection by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business.

(B) In such action, the validity and appropriateness of the order imposing such civil penalty shall not be subject to review.

(c) Other Remedies Unaffected.--The remedies provided in subsections (a) and (b) shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 9. INVESTIGATIONS; POWER TO SUBPOENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS.

(a) Investigations.--The Secretary may make such investigations as the Secretary deems necessary--

(1) for the effective administration of this Act, or

(2) to determine whether any person subject to the provisions of this Act has engaged or is about to engage in any act that constitutes or will constitute a violation of any provision of this Act, or of any order or regulation issued under this Act.

(b) Power to Subpoena and Take Oaths and Affirmations.--For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) Aid of Courts.--In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of such person or the production of records. The court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

SEC. 10. ADMINISTRATIVE PROVISIONS.

(a) Construction.--Except as provided in subsection (b), nothing in this Act may be construed to preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

(b) State Laws.--(1) In order to ensure the proper administration of this Act, any provision of State law automatically requiring a State referendum relating to the continuation or termination of a qualified State soybean board shall, to the extent it automatically requires such a referendum, be suspended for the period beginning on the date an order is issued under section 4 and ending 18 months after the referendum on such order is conducted under section 6(a). Such suspension shall not be construed to apply to any State referendum regarding a State soybean promotion program that is originated by soybean producers.

(2) In order to ensure adequate funding of the operations of qualified State soybean boards under this Act, whenever an order is in effect under this Act, no State law or regulation that limits the rate of assessment that the qualified State soybean board in the State may collect from producers on soybeans produced in such State, or that has the effect of limiting such rate, may be applied to prohibit such State board from

collecting, and expending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 5(j)(4).

SEC. 11. REGULATIONS.

The Secretary may make such regulations as may be necessary to carry out the provisions of the Act.

SEC. 12. AUTHORIZATION.

There are hereby authorized to be appropriated annually such funds as are necessary to carry out the provisions of this Act. The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this Act.

BRIEF EXPLANATION

Amendment in the nature of a substitute to:

The Soybean Promotion, Research,

and Consumer Information Act

H.R. 2209

26 October 1989

H.R. 2209, the Soybean Promotion, Research, and Consumer Information Act, would:

(1) direct the Secretary of Agriculture to issue, upon request of an interested person or on the Secretary's own initiative, promotion, research, and consumer information orders, which are national in scope, and applicable to producers and first purchasers of soybeans;

(2) specify the terms and conditions that must be included in such a soybean order, including:

(a) the establishment of the United Soybean Board to administer the order, with representation by soybean producers;

(b) the requirement that the Board may establish an administrative staff and facilities or contract for the use of staff and facilities of national, nonprofit, producer-governed organizations that represent producers of soybeans;

(c) the requirement that costs incurred by the Board (including the cost of staff but not including administrative costs incurred by the Secretary) not exceed 5 percent of revenues;

(d) the requirement that the budget of the Board must be approved by the Secretary of Agriculture;

(e) the requirement that each first purchaser of soybeans collect an assessment of one-half of 1 percent of the net market price of soybeans from producers which, prior to the approval of the order, may be refunded to the producer upon demand;

(f) the requirement that the Board enter into contracts and agreements with national, nonprofit, producer-governed organizations that represent producers of soybeans to implement and carry out the activities within a program area authorized by the bill;

(g) the requirement that the Board maintain books and records to be audited annually by an independent auditor and a report of such audit will be submitted to the Secretary and made available to the public; and

(h) the requirement that first purchasers and producers of soybeans maintain books and records;

(3) provide for an initial referendum of soybean producers between 18 and 36 months after the issuance of an order, to ascertain whether the order shall be continued;

(4) provide for additional referenda upon the request of 10 percent or more of soybean producers; and

(5) provide for the enforcement of the provisions of the order through civil money penalties of up to $1,000 per violation, plus double any assessments required by the order.

STATEMENT OF
THE HONORABLE DAN GLICKMAN (D-KS), CHAIRMAN
WHEAT, SOYBEANS, AND FEED GRAINS SUBCOMMITTEE

BEFORE A BUSINESS MEETING OF THE
COMMITTEE ON AGRICULTURE

ON
HR 2209, SOYBEAN PROMOTION, RESEARCH, AND
CONSUMER INFORMATION ACT

9:30 AM, THURSDAY, OCTOBER 26, 1989
1300 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D. C.

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Mr. Chairman: I appreciate your cooperation in scheduling this bill for consideration by the Committee. I also want to thank and express my appreciation for the assistance I have received from your staff and the staff of the Committee's Ranking Member, Mr. Madigan, in developing this bill.

I will be offering an amendment in the nature of a substitute to HR 2209, as amended by the Subcommittee, at the appropriate time. Members have before them a short summary of that amendment, a section by section analysis of the amendment, and a copy of that amendment. My staff and I have also tried to brief Members and their staff about the substitute. Committee counsel is also available to answer technical questions about the amendment. I do not intend to dwell on the more technical aspects of the bill. I do, however, want to address some of the larger issues which I dealt with in developing the substitute.

Since Mr. Marlenee and I agreed to introduce this bill, we have gathered the support of nearly one-fourth of the Members of the House and two-thirds of the Members of this Committee. Including myself, 99 Members are cosponsors of the bill, 29 of whom sit on this Committee. Support is bipartisan and representative of all parts of the country.

That depth of support should come as no surprise. This Committee, and the agriculture community generally, has been supportive of farmer-financed, farmer-directed commodity promotion programs. We have worked with cotton producers, dairymen, livestock producers, and many others in agriculture to develop check-off programs similar to the bill before us. I believe in that concept and support it.

In short, HR 2209 will put into place a program whereby farmers will contribute for each bushel of soybeans produced and marketed in this country an assessment of one-half of one percent of the market price of the soybeans. 50% of those funds will be kept at the state level to continue to fund state soybean promotion programs. Indeed, through a variety of mechanisms, this legislation will strengthen and even encourage the operation

and continuation of state soybean promotion programs.

The bill establishes a national entity, the United Soybean Board, to operate the check-off program. The Secretary will appoint to the board farmers nominated by state soybean boards and each state will be apportioned seats based on its level of soybean production. It will be the USB which will then carry-out the various research, market development, and consumer information programs authorized in the bill.

This bill will require within 36 months of the effective date of the program, the Secretary to conduct a referendum among farmers on whether the program should continue. Until that vote, farmers will be able to request and receive full refunds of the assessments made under the program. After that vote, if it is affirmative, refunds will not be permitted, identical to the beef and pork programs established in the 1985 Food Security Act.

This bill goes further in that it provides farmers two additional mechanisms by which they can express their views on the program: One, at any time, 10% of soybean farmers may petition for a recall vote, and two, at least one each five years, the Secretary is required to poll farmers to determine whether they wish to conduct a referendum on continuing the program.

This legislation includes several provisions to ensure accountability in the operation of the program. It requires the USB to keep records and accounts of all its financial dealings, requires the Secretary to have an independent audit conducted of the USB annually, and to make a report of that audit available to the public and that the USB also make available an annual report of its finances. In addition, before the USB can conduct any activities and expend any funds, the Secretary must grant approval.

Mr. Chairman and Members of the Committee, the Subcommittee conducted a public hearing on this legislation on June 6 and marked-up and reported favorably the bill on June 13. At the hearing, the Subcommittee received testimony from the Department of Agriculture, the American Farm Bureau Federation, the National Farmers Union, the National Farmers Organization, the American Agriculture Movement, and the American Soybean Association. The Subcommittee has also received written comments on the legislation from the Department of Agriculture, the Justice Department, and the Office of the United States Trade Representative. Let me say that in large part, the substitute amendment will address the vast majority of the concerns the Administration raised about the bill as introduced and that it does comport with the Administration's comments on major items.

The substitute which I am offering is the product of melding together those views. It is not perfect. It does not go as far as some would have preferred and goes farther in changing the base bill than others wanted. It is indeed a compromise.

It has been my abiding concern in developing this substitute that, quite frankly, this check-off program not simply be a shell for a private, membership organization who has as one of its

primary purposes the advocacy of political views. Do not misunderstand me, I encourage and support the development of political organizations and membership in them.

However, I do not believe that Congress should act to favor one group over another or that Congress should be enacting programs which will result in the collection of funds from all farmers for the benefit of lobbying groups which may represent the views of just a fraction of our farmers. Without casting aspersion or prejudice on other check-off programs, I have serious questions about the relationship between some check-off programs and the private lobbying groups which also represent those same commodities.

If it is the decision of the individuals who ultimately come to serve as members of the United Soybean Board to affiliate closely with any one single lobbying group, that is their choice. It should not be the result of the actions which Congress takes in implementing this, or any other, check-off legislation.

Farmers will have the right to exercise their views and position on that by voting. In addition, the Secretary is required to ensure that the actions of the USB are checked. It is my hope that this legislation is not tilted in favor of that happening. I have wanted to create, if you will, a level playing field for a diversity of views and a wide range of checks and balances to prevent an overly close relationship between the funds which will collected from all soybean farmers in the country and private lobbying groups which may only represent the political views of a small percentage of the soybean farmers in this country.

If you will, Mr. Chairman, permit me to highlight the provisions of the substitute amendment which I believe will help ensure the independence of the USB.

Number one, the Secretary is required to appoint to the USB representativess of national farm organizations. This will ensure a diversity of views on the board.

Two, the substitute does not lock the USB into contracting with one specific organization for administrative or programmatic services. In fact, this substitute gives USB authority to establish its own staff, and limits the amount of funds which may be used for such staff, for administrative purposes.

Three, the substitute also opens up the contracting process for programmatic purposes -- for carrying out research efforts, market development, or consumer information programs -- to all farmer-governed organizations which also represent soybean growers.

Four, the substitute eliminates the proposed coordinating committee whose membership would have been heavily tilted in favor of one specific organization and would have been filled with members not selected through the same open nominating process required elsewhere in the bill.

There are other provisions in the substitute which have been negotiated with that same purpose in mind. I am pleased that the commodity group most interested in this program and who has

advocated enactment of this legislation has negotiated these changes in the base bill with me. As I said, the substitute I will be offering is a compromise. With the vigilance of the Secretary, the farmers affected by the program, the commitment of the members of the USB, and of course, the oversight of the Congress, I believe the USB will be and will remain an independent entity.

Mr. Chairman, before closing and answering, with the help of counsel, questions Members may have about the substitute. I would like to make 3 announcements.

One, I will be asking unanimous consent of the Committee that the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, to whom this legislation was also referred, be discharged from further consideration of the bill HR 2209. I also want to acknowledge the cooperation and assistance I have received from the Chairman of that Subcommittee, Mr. Hatcher, and its Ranking Member, Mr. Emerson, both cosponsors of this bill, in working on HR 2209.

Two, I will be asking unanimous consent of the Committee the amendment in the nature of a substitute which I will offer be considered an original bill for the purposes of amendment.

Three, I have an announcement for Members of the Subcommittee and members of the public which may have an interest in commodities and possible check-off programs within the jurisdiction of the Subcommittee. I have come to the conclusion, partly as a result of my experience in working on HR 2209, that the Subcommittee should establish a set of criteria and standards for working on future commodity promotion programs.

It is my intention to develop a set of guidelines, based in large part on the negotiations which went into the development of the substitute amendment, the Subcommittee will use for future consideration of other commodity check-off programs. I recognize that commodities and thus their promotion programs have their individual characteristics which must be accounted for; however, I also believe that certain basic standards should apply to all check-off programs. I will be working, in close consultation with Members of the Subcommittee, to develop such a set of guidelines and principles.

Once done, I will ask Members of the Subcommittee to approve them and it will be, of course, the prerogative of the Members to modify them or reject them altogether, though I do now firmly believe that we need in place a set of objective standards for each commodity program, a basic pattern, if you will. Until those guidelines are in place, however, it is not my intention to proceed on any new commodity check-off legislation.

Mr. Chairman, I appreciate your indulgence and the indulgence of the Committee for this time. Again, I appreciate the cooperation of the Members of the Subcommittee and full Committee on both sides of the aisle for helping me bring this bill to the Committee for approval.

***

#2
Amendment to HR 2209
By Mr. Huckaby

On page 18, strike out paragraph (3), redesignate paragraph (4) as paragraph (3), and on page 19, line 4, strike out "shall" and insert "may".

Explanation:

This amendment would allow the board, if it so decided, to directly enter into contracts or agreements for research and promotion activities. The bill currently requires it to enter into contracts through national, nonprofit, producer-governed organizations that represent producers of soybeans.

Proposed Report Language Offered by Mr. Lancaster
--Committee Report to Accompany H.R. 2209--

Section 5(i)(4) provides that each soybean producer who can establish that he or she is contributing to a qualified State soybean board under a State soybean checkoff program will receive credit for such contributions of up to one-half of the national checkoff assessment rate. In addition, section 10(a) provides, with certain very limited exceptions, that the bill should not be construed to preempt or supercede State soybean checkoff programs.

Sections 5(i)(4) and 10(a) are designed to ensure that the national soybean checkoff program established under the bill does not adversely affect, or interfere with the operations of State soybean checkoff programs. Existing State programs, some of which have been in operation for decades, have done important work in their own right in assisting soybean producers in marketing their product and otherwise promoting the interests of producers and their product. The Committee strongly supports continuation of the traditional work of existing State checkoff programs.

The Committee intends that the Department of Agriculture, in developing regulations and administering the national program under the bill, will take steps to facilitate the qualification of existing State soybean checkoff entities as qualified State soybean boards. In that regard, the Committee also intends for the regulations and administrative actions of the Department, as related to the qualifications of existing State boards, not force States to revise current programs that use soybean checkoff funds or their administration of such programs as a condition for qualifying, so long as State use of checkoff funds falls generally within the scope of the bill.

PROPOSED REPORT LANGUAGE OFFERED BY MR. LANCASTER

SUPPORT STATEMENT FOR H. R. 2209

BY MR. HARRIS OF ALABAMA

I WOULD LIKE TO ASSOCIATE MYSELF WITH THE REMARKS OF MR. LANCASTER. IT HAS BEEN A MATTER OF SOME CONCERN TO ME THAT PROVISIONS OF THIS LEGISLATION COULD IF IMPROPERLY interpreted BY THE SECRETARY SERIOUSLY UNDERMINE THE ACTIVITIES OF THE PRE-EXSISTING ORGANIZATIONS IN THE VARIOUS STATES. IN ALABAMA, WE HAVE A LONG STANDING PROGRAM OF RESEARCH PROMOTION AND EDUCATION. THIS IS A PROGRAM WHICH HAS BEEN SUPPORTED BY VOLUNTARY CONTRIBUTIONS MADE IN THE FORM OF PER BUSHEL CHECKOFF COLLECTED BY OUR COMMISSIONER OF AGRICULTURE AND INDUSTRIES, AND ADMINISTERED BY THE SOYBEAN COMMMODITY PRODUCERS COMMITTEE OF THE ALABAMA FARMERS FEDERATION. THIS STATE COMMITTEE IS ELECTED ANNUALLY BY THEIR PEERS WHO SERVE ON ORGANIZED COMMODITY COMMITTEES LOCATED IN ALL COUNTIES OF THE STATE WHERE SOYBEANS ARE PRODUCED PROVIDING BROAD GRASSROOTS REPRESENTATION ON THE COMMITTEE.

AS I MENTIONED EARLIER, THIS STATEWIDE COMMITTEE WHICH IS FRANCHISED UNDER THE CONSTITUTION OF THE STATE OF ALABAMA, HAS CONDUCTED PROGRAMS OF RESEARCH, CONSUMER EDUCATION, AND PROMOTION FOR MANY YEARS. I WANT TO BE ASSURED THAT THIS COMMITTEE INTENDS THAT THE SECRETARY IOF AGRICULTURE, IN DEVELOPING REGULATIONS FOR THE ADMINISTRATION OF THIS NATIONAL PROGRAM UNDER PROVISIONS OF THIS BILL, WILL TAKE EVERY PRECAUTION TO ASSURE THAT THE PRE-ESISTING RELATIONSHIPS WITH STATE SOYBEAN CHECKOFF ENTITIES ARE MAINTAINED AND THAT THE INTEGRITY OF THOSE PROGRAMS MAINTAINED.

RICHARD H. STALLINGS
2D DISTRICT, IDAHO

1231 LONGWORTH BUILDING
WASHINGTON, DC 20515
(202) 225-5531

COMMITTEE ON AGRICULTURE

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

SELECT COMMITTEE ON AGING

Congress of the United States
House of Representatives
Washington, DC 20515

OPENING STATEMENT
AGRICULTURE COMMITTEE
HEARING ON H.R. 2209, SOYBEAN PROMOTION, RESEARCH, AND CONSUMER PROTECTION ACT by Mr. Glickman
October 26, 1989

HONORABLE RICHARD H. STALLINGS

Mr. Chairman. Today the Committee ~~woody~~ will begin the review and mark-up of the Soybean Promotion, Research, and Consumer Protection Act. At this time I believe it is appropriate that I mention the Committee has several commodity promotion bills before it, including my own Potato Promotion Act of 1989, which amends and strengthens an existing check-off program, and I am confident that we will soon see action on this and the other bills.

The need for which these programs were created, to provide a fund to educate, research, and promote commodities with producer provided dollars is as great today as ever. The potential for new markets is enormous. I am eager to begin working on these bills.

Mr. Chairman, thank you for your efforts, and for beginning action on these bills important to conumer and farmers alike.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, October 26, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 1:10 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the recently issued draft Northern Forest Lands Study.

The following Members were present:

Mr. Volkmer	Mr. Morrison	Mr.
Mr. Olin	Mr.	Mr.
Mr. Stallings	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
Timothy P. DeCoster, Subcommittee Staff Director
Sondra Feldstein, Minority Staff Assistant
Jim Davis, Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

1. Mr. George M. Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, DC

   accompanied by:
   Mr. Stephen C. Harper, Coordinator, Northern Forests Lands Study, Rutland, VT

2. Mr. Will Abbott, Executive Director, New Hampshire Land Conservation Investment Program, Concord, NH

3

Thursday, October 26, 1989
Forests, Family Farms, and Energy
Subcommittee
Public Hearing
Review of Northern Forest Lands Study
Report

Chairman Volkmer called the meeting to order for the purpose of reviewing the recently issued Northern Forest Lands Study Report commissioned by a 1989 appropriation act and conducted by the Forest Service in consultation with the Governors' task force on Northern Forest Lands. After brief opening remarks by Mr. Volkmer and the other Subcommittee Members present, Mr. Leonard, Associate Chief of the Forest Service, was recognized for his prepared statement. The Members then questioned Mr. Leonard and the other witnesses listed on page two of these minutes.

At 1:45 p.m., the meeting was adjourned subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, October 31, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 1:35 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing the food stamp program for the 1990 farm bill

The following Members were present:

Mr. Hatcher, Chrm.	Mr. Emerson	Mr.
Mr. Staggers	Mr.	Mr.
Mr. Espy	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

John E. Hogan, Minority Counsel
Joe Muldoon, Majority Assistant Counsel
Allie Devine, Minority Associate Counsel
Julia M. Paradis, Subcommittee Staff Director
Lynn Gallagher, Minority Consultant
Dean Mitchell, Staff Assistant
Glenda Temple, Clerk
Grace McGovern, Staff Assistant
Anita Brown, Staff Assistant

Witnesses:

1. Honorable Robert E. Wise, Jr., Member of Congress from West Virginia

2. Ms. Catherine A. Bertini, Assistant Secretary for Food and Consumer Services, U.S. Department of Agriculture, Washington, D.C.

3. Mr. John W. Harman, Director, Food and Agriculture Issues, Resources, Community, and Economic Development Division, U.S. General Accounting Office, Washington, D.C.

   Acc. by: Mr. Michael Rives, Evaluator, Dallas Regional Office, GAO

   Mr. James H. Solomon, Assistant Director, Program Evaluation Methodology Division, GAO

   Mr. Frank Taliaferro, Evaluator, Chicago Regional Office, GAO

4. Mr. Robert J. Fersh, Executive Director, Food Research and Action Center, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Charles Hatcher, Member of Congress from Georgia

2. Hon. Bill Emerson, Member of Congress from Missouri

Tuesday, October 31, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Public Hearing
Reauthorization of food stamp
program in 1990 farm bill

Mr. Hatcher, Chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, called the meeting to order for the purpose of reviewing the food stamp program to develop a legislative package for inclusion in the 1990 farm bill. Mr. Hatcher made brief opening comments as did Mr. Emerson, the Ranking Minority Member of the Subcommittee.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

During the proceedings one recess was taken at 1:50 p.m. to enable Members to respond to a recorded vote on the House floor. At 3:15 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, October 31, 1989

(Sub) Committee: Department Operations, Research, and Foreign Agriculture

Public Hearing

met at 2:10 p.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing proposals to amend the Federal Insecticide, Fungicide, and Rodenticide Act

The following Members were present:

Mr. Brown	Mr. Roberts	Mr.
Mr. Rose	Mr. Morrison	Mr.
Mr. Panetta	Mr. Walsh	Mr.
Mr. Stenholm	Mr.	Mr.
Mr. Glickman	Mr.	Mr.
Mr. Olin	Mr.	Mr.
Mr. Volkmer	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. ex officio	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

John E. Hogan, Minority Counsel
William A. Stiles, Jr., Subcommittee Staff Director
John J. Aguirre, Minority Consultant
William E. O'Conner Jr., Assistant Minority Staff Director
James R. Lyons, Staff Assistant
Jim Davis, Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

Hon. Mike Synar, Member of Congress from Oklahoma

Mr. Jack C. Parnell, Deputy Secretary, U.S. Department of Agriculture, Washington, DC

Ms. Linda J. Fisher, Assistant Administrator, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, DC

Tuesday, October 31, 1989
Department Operations, Research, and Foreign Agriculture Subcommittee
Public Hearing
Review of proposals to amend the Federal Insecticide, Fungicide, and Rodenticide Act

Chairman Brown announced that the purpose of this meeting was to examine legislative changes proposed to the Federal Insecticide, Fungicide, and Rodenticide Act. After brief opening remarks, Mr. Brown recognized USDA Deputy Secretary Jack Parnell and EPA Assistant Administrator Linda Fisher, who expressed the Administration's views on pending legislation and responded to questions about the President's seven point initiative on food safety.

During the proceedings, one recess was taken at 3:12 p.m., to allow Members to respond to a vote on the floor of the House of Representatives. In closing remarks, Mr. Brown indicated that Subcommittee members may want to submit additional questions to the witnesses. At 5:03 p.m., the meeting was adjourned subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date November 1, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 9:40 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reauthorizing the Food Stamp Program in the 1990 Farm Bill

The following Members were present:

Mr. Hatcher	Mr. Emerson	Mr.
Mr. Staggers	Mr. Lewis	Mr.
Mr. Espy	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Julia Paradis, Subcommittee Staff Director
Dean Mitchell, Subcommittee Consultant
Lynn Gallagher, Minority Consultant
Grace McGovern, Staff Assistant

Witnesses:

1. Mr. Robert Greenstein, Director, Center on Budget and Policy Priorities, Washington, D.C.

2. Ms. Veronica Celani, Commissioner, Vermont Department of Social Welfare, Waterbury, Vermont, on behalf of the American Public Welfare Association, Washington, D.C.

3. Panel:

   Ms. Eloise Ellis, Capital Cities Task Force, District of Columbia, representing the American Association of Retired Persons, Washington, D.C.

   Ms. Patricia Morris, Director of Research, Public Voice, Washington, D.C.

   Mr. Steven Banks, Coordinating Attorney, Homeless Family Rights Project, New York, New York

4. Panel:

   Mr. Dent Temples, Senior Vice President, Piggly Wiggly Southern, Inc./Bruno's, Vidalia, Georgia, on behalf of the Food Marketing Institute, Washington, D.C.
   Acc. by: Mr. Hardy Nathan, Director, Government Relations, Food Marketing Institute, Washington, D.C.

   Ms. Viann Hardy, Deputy Secretary of Management Systems, Florida Department of Health and Rehabilitative Services, Tallahassee, Florida

Wednesday, November 1, 1989
Subcommittee on Domestic Marketing,
Consumer Relations, and Nutrition
Public Hearing
Reauthorization of the Food Stamp
Program in the 1990 Farm Bill

Chairman Hatcher called the hearing to order for the purpose of reauthorizing the Food Stamp Program in the 1990 Farm Bill. Witnesses testified in the order in which they appear on page 2. Following their testimony, they were questioned by the Members of the Subcommittee.

The hearing recessed for votes at 10:05 a.m. and 11:55 a.m. The hearing was adjourned at 12:40 p.m subject to the call of the chair.

Grace McGovern

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, November 1, 1989

(308) Committee: Agriculture and Foreign Affairs
Joint Public Hearing

met at 10:25 a.m. o'clock, in Room 2172 Rayburn House Office Building

for the purpose of reviewing U.S. International Food Assistance Programs

The following Members were present:

Agriculture		Foreign Affairs
Mr. de la Garza	Mr. Condit	Mr. Fascell
Mr. English	Mr. Lancaster	Mr. Gejdenson
Mr. Huckaby	Mr. Madigan	Mr. Ackerman
Mr. Glickman	Mr. Coleman	Mr. Johnston
Mr. Stenholm	Mr. Marlenee	Mr. Payne
Mr. Volkmer	Mr. Stangeland	Mr. Leach
Mr. Staggers	Mr. Lewis	Mr. Bereuter
Mr. Penny	Mr. Combest	Mr$ Meyers
Mr. Nagle	Mr. Schuette	Mr.
Mr. Jontz	Mr. Herger	Mr.
Mr. Espy	Mr. Walsh	Mr.
Mr. Sarpalius	Mr.	Mr.
M $ Long	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Agriculture	Foreign Affairs
John Hogan	Margaret Goodman
Anita Brown	Gerald Pitchford
Glenda Temple	Carol Doherty
	Gardner Peckham

Witnesses:

1. Hon. John Melcher, former Senator from Montana

2. Panel:

   Mr. Philip L. Christenson, Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance, Agency for International Development, Washington, D.C.

   Mr. Alan Larson, Deputy Assistant Secretary, Bureau of Economic and Business Affairs, Department of State, Washington, D.C.

   Mr. Christopher E. Goldthwait, Assistant General Sales Manager, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C.

3. Panel:

   Mr. John Donnally, Senior Director, Office of Project Resource Management, Catholic Relief Services, Baltimore, Maryland

   Mr. Steven A. McCoy, President, North American Export Grain Association, Washington, D.C.

   Mr. Daniel E. Shaughnessy, President, Export Processing Industry Coalition, Arlington, Virginia

   Mr. Charles Sykes, Assistant Executive Director, CARE, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Doug Bereuter, Member of Congress from Nebraska

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Wednesday, November 1, 1989
Committee on Agriculture and
Committee on Foreign Affairs
Joint Public Hearing
Review U.S. International Food
Assistance Programs

Chairman Fascell of the Committee on Foreign Affairs called the joint meeting to order for the purpose of reviewing U.S. International Food Assistance Programs. Chairman Fascell and Chairman de la Garza of the Committee on Agriculture made brief opening comments.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Committees.

During the proceedings one recess was taken at 11:50 a.m. to enable Members to respond to a recorded vote on the House floor. At 2:00 p.m. the meeting was adjourned, subject to the call of the respective Chairs.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Saturday, November 4, 1989

(Subc) Committee: Full

Public Field Hearing

met at 9:10 a.m. o'clock, in Room UC 200, Old Cafeteria Bldg., Campus of Calif State University at Fresno, Fresno, CA
for the purpose of reviewing issues relating to the formulation of the 1990 Farm Bill.

The following Members were present:

Mr. de la Garza
Mr. Espy
Mr. Condit
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Herger
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

OTHER MEMBERS PRESENT:
Mr. Lehman, California
Mr. Pashayan
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:

Joe Muldoon, Majority Assistant Counsel
Julie Kogut, Staff Assistant
Marshall Livingston, Staff Assistant

Welcome: Mr. Richard Peters, Peters Farms, Fresno, California

WITNESSES

1. Mr. Henry Voss, Director, California Department of Food and Agriculture, Sacramento, California

2. PANEL:

   Mr. Bob Vice, President, California Farm Bureau Federation, Sacramento, California

   Mr. Michael Barosso, President, American Agriculture Movement, Chico, California

   Ms. Sharan Lanini, President, Salinas Valley Chapter, California Women for Agriculture, Salinas, California

   Mr. David Moore, President, Western Growers Association, Irvine, California

   Mr. Steven R. Beckley, General Manager, California Fertilizers Association, Sacramento, California

3. PANEL:

   Mr. Glenn Anderson, Committee for Sustainable Agriculture, Hilmer, California

   Dr. Charles M. Smallwood, Dean, School of Agricultural Sciences and Technology, California State University at Fresno, Fresno, California

   Mr. James Seiber, representing the College of Agriculture, University of California, Davis, California

   Mr. Tom Willey, California Certified Organic Farmers, Fresno, California

4. PANEL:

   Mr. Richard Cotta, Vice President-Manager, Western United Dairymen, Modesto, California

   Dr. James Gruebele, Chief Executive Officer, Dairymen's Cooperative Creamery Association, Tulare, California

   Mr. Roy Sharp, Chairman, Agriculture Policy Commission, California Cattlemen's Association, Tulare County, California

(Panel from preceeding page continued.....)

Mr. Jay Wilson, California Wool Growers Association, Sacramento, California

Mr. Richard Peterson, California Prune Board, San Francisco, California

Ms. Elaine Abbott, Economist, Sunkist Growers, Van Nuys, California

6. PANEL:

Mr. Jerry Barton, President, Diamond Walnut, Stockton, California
Accompanied by: Mr. Phillip Short, California Walnut Commission

Mr. Barry Kreibel, President, Sun-Maid Growers of California, Kingsburg, California

7. PANEL:

Mrs. Naomi Fletcher, Legislative Director, California State Grange, Sacramento, California

Mr. A.J. Yates, President, Fresno County Farm Bureau, Fresno, California

Mr. Dennis Serpa, California Association of Family Farmers, Turlock, California

Mr. Willoughby Houk, State Director, American Agriculture Movement of California, Firebaugh, California

Mr. Steven Siri, President, Santa Cruz County Farm Bureau, Santa Cruz, California

8. PANEL:

Mr. Fred Starrh, President, Cotton Growers, Fresno, California

Mr. John O. Seasholtz, Seasholtz Farming, Fresno, California

Mr. David Galleano, Madera, California

Mr. Ken Frick, Arvin, California

Mr. John Pucheu, Chairman of the Board, CalCot, Bakersfield, California

9. PANEL:

Mr. George Butts, Los Banos, California

Mr. Walt Shubin, Kerman, California

Mr. Tom Castle, Morgan Hill, California

Mr. Alfred G. Montna, California Delegation Chairman, U.S. Rice Producers Legislative Group, Yuba City, California

Saturday, November 4, 1989
Full Committee
Public Field Hearing
Farm Bill 1990

Chairman de la Garza called the meeting to order at 9:10 a.m., for the purpose of hearing testimony relating to the formulation of the 1990 Farm Bill. Chairman de la Garza made a brief statement introducing the Members of Congress who were present. Chairman de la Garza introduced the newest Member of the Committee on Agriculture, Congressman Condit, who made a brief welcoming statement.

Mr. Richard Peters, a member of the California Agriculture Advisory Board and owner of Peters Farms, welcomed the Committee on Agriculture to Fresno.

Chairman de la Garza requested that the testimony of Congressman Pashayan, Congressman Herger and Congressman Lehman be included in the hearing Record in lieu of oral statements because of the number of witnesses scheduled to testify. There was no objection.

Chairman de la Garza called the first Panel to testify, however, Mr. Henry Voss was the only panelist present. The Chairman called the next panel who were questioned by the Members on food safety and pesticides, in particular imported fruits and vegetables. Of major concern was the lack of any systematic checking of fruits and vegetables at the border and that there were no effective barriers to screen fruits and vegetables.

Congressman Lehman said he would like to see some records as to what food inspectors actually find during their food inspections to determine what is being done. Chairman de la Garza responded that the checking is random--not every box of U.S. or imported produce is checked and he assured the Committee's continued monitoring of food inspection.

Chairman de la Garza then emphasized the fact that the United States has the safest food in the world but that we still have to do better.

Mr. Barosso stated that he has seen notices in the local newspaper indicating dates and times when the Department of Agriculture food inspectors would be in a specific locality to make food inspection. Chairman de la Garza said he would have to challenge that statement and would check into it. Discussions occurred as to whether the inspections posted in the papers could have related to the Food and Drug Administration inspections.

Saturday, November 4, 1989
Full Committee
Public Field Hearing
Farm Bill 1990

Chairman de la Garza called the next panel (Panel 4) to appear and testify. All witnesses were present.

Panel 5 were all present and were heard by the Members of the Committee.

Chairman de la Garza heard Mr. Peterson and Ms. Abbott from Panel 6 before ending the morning session. The morning session concluded at 12:45 p.m.

Chairman de la Garza called the afternoon session to order at 2:07 p.m. and asked Panel 7 to appear and testify. Mr. Siri was requested by Congressman Panetta to testify about the earthquake's devastation to the farming community in Santa Cruz. Mr. Siri did not have written testimony; however, he submitted letters, etc., for the Record.

Chairman de la Garza called Mr. Barton, who was accompanied by Mr. Phillip Short, and Mr. Kreibel, from Panel 6, to testify.

The next panel to testify was Panel 8. Mr. Ullman was not able to attend the hearing and submitted written testimony for the Record. Mr. Frick from Panel 9, sat with Panel 8.

After hearing testimony from Panel 9, Chairman de la Garza made closing remarks and thanked California State University at Fresno for their assistance with the hearing.

The hearing concluded at 4:35 p.m., subject to the call of the Chair.

Marshall Livingston

Marshall Livingston

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Monday, November 6, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Field Hearing

met at 8:00 a.m. o'clock, in Room Berkeley County Courthouse, Moncks Corner, South Carolina

for the purpose of reviewing the effects of Hurricane Hugo on forest resources

The following Members were present:

FFFE	Agriculture Committee	Other Members present
Mr. Volkmer	Mr. Tallon	Mr. Spratt
Mr. Olin	Mr.	Mr. Hollings, U.S.S.
Mr. Harris	Mr.	Mr.
Mr. Herger	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Tim DeCoster, Subcommittee Staff Director
Allison Biggs, Minority Consultant
Joe Muldoon, Majority Assistant Counsel

Witnesses:

1. Mr. Allan J. West, Deputy Chief, State and Private Forestry, Forest Service, U.S. Department of Agriculture, Washington, D.C.
   Acc. by: Mr. Jack E. Alcock Regional Forester, Forest Service, U.S. Department of Agriculture, Atlanta, Georgia
   Mr. J. Lamar Beasley, Station Director, Southeast Forest Experiment Station, Forest Service, U.S. Department of Agriculture, Asheville, North Carolina
   Mr. Donald W. Eng, Forest Supervisor, Francis Marion and Sumter National Forests, Forest Service, U.S. Department of Agriculture, Columbia, South Carolina

2. Panel:
   Mr. Robert "Jack" Gould, Acting State Forester, South Carolina Forestry Commission, Columbia, South Carolina

   Mr. Derryl L. Walden, Section Chief for Forest Management and Development, North Carolina Division of Forest Resources, Raleigh, North Carolina

   Mr. R. Scott Wallinger, Senior Vice President, Westvaco Corporation, and Chairman, Governor's Forest Disaster Salvage Council, Summerville, South Carolina

   Mr. Hugh M. Lupold, Forest Products Consultant, and Executive Secretary, Governor's Forest Disaster Salvage Council, Holly Hill, South Carolina

3. Hon. Ernest Hollings, United States Senator from South Carolina

4. Panel:
   Mr. Bill Sullivan, Regional Manager, International Paper, Georgetown, South Carolina

   Mr. Calhoun W. Umphlett, President and General Manager, Umphlett Lumber Company, Moncks Corner, South Carolina

   Mr. Johnny E. Ward, W & W Truck and Trailer, Moncks Corner, South Carolina, representing the South Carolina Forestry Association Loggers Committee

   Mr. Lucas M. Dargan, Chairman, Forestry Committee, South Carolina Farm Bureau, Darlington, South Carolina

   Mr. Bartow S. Shaw, Jr., Forestry Consultant, Sumter, South Carolina

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Monday, November 6, 1989
Subcommittee on Forests,
Family Farms, and Energy
Public Field Hearing
Review effects of Hurricane Hugo
on forest resources

Witnesses Continued:

5. Dr. Rudolph Rosen, Southeast Office Director, National Wildlife Federation, Atlanta, Georgia

5. Hon. Robert E. McNair, former Governor, Box 11390, Columbia, South Carolina 29201

6. Mr. G. Michael Maggard, Berkeley County Ranger, Route 1, Box 6, Cross, South Carolina 29436

Statements Submitted for the Record:

1. Hon. Wally Herger, Member of Congress from California

2. Hon. Robin Tallon, Member of Congress from South Carolina

3. Hon. John M. Spratt, Jr., Member of Congress from South Carolina

4. Mr. J. Chalmers Dial, Berkeley Soil and Water Conservation District, 223 N. Live Oak Drive, Moncks Corner, South Carolina 29461

5. Mr. Jon P. Liles, Liles Forest Management, Inc., 800 Jefferies Boulevard, Box 106, Walterboro, South Carolina 29488

6. Mr. Lynn Z. Dantzler, President, Edisto Farm Credit Service, Orangeburg, South Carolina

7. Mr. James L. Guy, 215 Stockton Road, Rembert, South Carolina 29128

Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy, called the meeting to order for the purpose of reviewing the effects of Hurricane Hugo on forest resources. Mr. Volkmer made brief opening comments, as did Messrs. Tallon and Spratt.

Monday, November 6, 1989
Subcommittee on Forests,
Family Farms, and Energy
Public Field Hearing
Review effects of Hurricane Hugo
on forest resources

The witnesses listed on pages 2 and 3 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members present.

At 11:20 p.m. the meeting was adjourned to reconvene subject to the call of the Chair.

Tim DeCoster

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, November 8, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Public Hearing

met at 10:05 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing H.R. 3581, the Rural Economic Development Act of 1989

The following Members were present:

Mr. English
Mr. Penny
Mr. Stallings
Mr. Nagle
Mr. Harris
Mr. Staggers
Mr. Espy
Ms. Long
Mr. de la Garza
Mr. ex officio
Mr.
Mr.
Mr.

Mr. Coleman
Mr. Morrison
Mr. Gunderson
Mr. Combest
Mr. Grandy
Mr. Holloway
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Huckaby
Mr. Campbell
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:
Dan Brinza, Counsel
Fred Clark, Majority Associate Counsel
Joe Muldoon, Majority Assistant Counsel
Bill Cherry, Subcommittee Staff Director
Jim McDonald, Subcommittee Consultant
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk
Jim Davis, Press Secretary
Bill O'Conner, Assistant Minority Staff Director

Witnesses:

1. Mr. Roland R. Vautour, Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Robert Peters, Acting Assistant Administrator - Tel., Rural Electrification Administration, USDA, Washington, D.C.

   Mr. Blaine D. Stockton, Jr., Assistant Administrator - Management, Rural Electrificatiion Administration, USDA, Washington, D.C.

   Mr. L. Glenn Bennett, Assistant Administrator, Community and Business Programs, Farmers Home Administration, USDA, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Glenn English, Member of Congress from Oklahoma
2. Hon. E. Thomas Coleman, Member of Congress from Missouri

U.S. GOVERNMENT PRINTING OFFICE: 1987 75-633 (m)

Wednesday, November 8, 1989
Subcommittee on Conservation,
Credit, and Rural Development
Public Hearing
Review H.R. 3581, the Rural
Economic Development Act

Chairman English called the meeting to order for the purpose of reviewing H.R. 3581, the Rural Economic Development Act of 1989. Mr. English made brief opening comments, as did Mr. Coleman, the Ranking Minority Member of the Subcommittee, Mr. Morrison, Mr. Grandy, Mr. Stallings, Mr. Holloway, and Mr. Huckaby.

The witness listed on page 2 of these minutes was recognized for the Administration's prepared statement. Following his presentation, the witness was questioned by the Members of the Subcommittee. Without objection, Members were given permission to submit additional questions in writing for the record.

At 11:55 a.m. the meeting was adjourned, to reconvene on Tuesday, November 14, to markup the rural development legislation.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, November 9, 1989

(Sub) Committee: Wheat, Soybeans, and Feed Grains

Public Hearing

met at 9:35 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing target price levels for oats and barley for the 1990 Farm Bill.

The following Members were present:

Mr. Glickman	Mr. Marlenee	Also Present	
Mr. Johnson	Mr. Smith	Mr. Stallings	
Mr. English	Mr. Schuette	Mr.	
Mr. Jontz	Mr.	Mr.	
Mr. Campbell	Mr.	Mr.	
Ms. Long	Mr.	Mr.	
Mr.	Mr.	Mr.	
Mr.	Mr.	Mr.	
Mr.	Mr.	Mr.	
Mr.	Mr.	Mr.	
Mr.	Mr.	Mr.	
Mr.	Mr.	Mr.	
Mr.	Mr.	Mr.	
Mr.	Mr.	Mr.	
		Mr.	
		Mr.	
		Mr.	
		Mr.	

Staff present:
Alice DeVine, Minority Associate Counsel
Greg Frazier, Subcommittee Staff Director
Clifford Humphrey, Minority Consultant
Anne C. Keys, Staff Assistant
Sondra Feldstein, Minority Staff Assistant
Jim Davis, Press Secretary
Joe Dugan, Assistant Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

1. Mr. Keith Bjerke, Administrator, Agricultural Stabilization Conservation Service, U.S. Department of Agriculture, Washington, DC

   accompanied by:
   Mr. Bruce R. Weber, Director, Commodity Analysis Division, U.S. Department of Agriculture-ASCS

   Mr. Thomas A. VonGarlem, Assistant Deputy Administrator, State and County Operations, U.S. Department of Agriculture-ASCS

2. Panel

   Mr. John Bollingberg, Oat Producer, Bremen, ND, and Member of the Board of Directors of the American Oat Association, Minneapolis, MN

   accompanied by:
   Ms. Patricia Henderson, Executive Director, American Oat Association, Minneapolis, MN

   Mr. Stephen P. Naught, Vice President, National Barley Growers Association, Vickleton, WA

   Dr. Martin E. Abel, President, Abel, Daft & Earley, Alexandria, VA, testifying on behalf of the National Association of Barley Growers

   Mr. James O. Broten, Vice Chairman, North Dakota Barley Council, Dazey, ND

   Mr. Thomas M. Iverson, Past President, Idaho Grain Producers Association, Bonners Ferry, ID

U.S. GOVERNMENT PRINTING OFFICE: 1987 75-833 (44)

Thursday, November 9, 1989
Wheat, Soybeans, and Feed Grains Subcommittee
Public Hearing
Review of target price levels for oats and barley for the 1990 Farm Bill

Chairman Glickman called the meeting to order and after brief opening remarks, recognized the witnesses listed on page two of these minutes for their prepared statements. After their presentations, the witnesses were questioned by the Members present.

During the proceedings, the Subcommittee recessed at 10:18 a.m., to enable Members to be present at the full Committee markup of H.R. 3589, by Mr. Panetta, a bill to provide assistance to agricultural producers suffering from earthquakes. Also during this Subcommittee meeting, Mr. Johnson shared the duties of the chair.

At 11:27 a.m., the meeting was adjourned subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, November 9, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 11:00 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing the status of National Forest land and resource management plans

The following Members were present:

Mr. Volkmer	Mr. Marlenee	Members Also Present:
Mr. Olin	Mr. Smith	Mr. English
Mr. Stallings	Mr. Herger	Mr.
Mr. Jontz	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
Tim DeCoster, Subcommittee Staff Director
Allison Biggs, Minority Consultant
Glenda Temple, Clerk
Allie Devine, Minority Associate Counsel
Jim Lyons, Staff Assistant

Witnesses:

1. Mr. George M. Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C.

   Acc. by: Mr. Buster LaMaure, Director, Minerals and Geology, Forest Service, U.S. Department of Agriculture, Washington, D.C.

U.S. GOVERNMENT PRINTING OFFICE 1981 75-833 (m)

Thursday, November 9, 1989
Subcommittee on Forests, Family Farms, and Energy
Public Hearing
Status of National Forest land and resource management plans

Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy, called the meeting to order for the purpose of reviewing the status of National Forest land and resource management plans. Mr. Volkmer made brief opening comments.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentation, the Forest Service representatives were questioned by the Members of the Subcommittee. Members were given permission to submit questions in writing and the Forest Service was asked to respond within two weeks.

During the proceedings one recess was taken at 11:55 a.m. to enable Members to respond to a recorded vote on the House floor. At 12:25 p.m. the meeting was adjourned to reconvene subject to the call of the Chair.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, November 9, 1989

(Sub) Committee: Full

Business Meeting

met at 10:10 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 2134, Federal Meat Inspection Amendment; H.R. 3620, Indian Tribal Ventures Payment Limitation Amendment; H.R. 3589, Earthquake Disaster Assistance; and H.R. 3482, Hurricane Hugo Forestry Restoration Act

The following Members were present:

Mr.	de la Garza	Mr.	Johnson	Mr.	Madigan
Mr.	English	Mr.	Campbell	Mr.	Marlenee
Mr.	Panetta	Mr.	Espy	Mr.	Stangeland
Mr.	Huckaby	Mr.	Long	Mr.	Roberts
Mr.	Glickman	Mr.	Condit	Mr.	Smith
Mr.	Stenholm	Mr.	Dyson	Mr.	Schuette
Mr.	Volkmer	Mr.	Lancaster	Mr.	Herger
Mr.	Tallon	Mr.		Mr.	Walsh
Mr.	Staggers	Mr.		Mr.	
Mr.	Olin	Mr.		Mr.	
Mr.	Penny	Mr.		Mr.	
Mr.	Stallings	Mr.		Mr.	
Mr.	Jontz	Mr.		Mr.	
				Mr.	
				Mr.	
				Mr.	
				Mr.	
				Mr.	

Staff present:
Dan Brinza, Counsel
Fred Clark, Majority Associate Counsel
Vernie Hubert, Majority Associate Counsel
Allie Devine, Minority Associate Counsel
Chip Conley, Staff Economist
Glenda Temple, Clerk
Bill O'Conner, Assistant Minority Staff Director
Jim Davis, Press Secretary
Jim Lyons, Staff Assistant

Witnesses:

None

U.S. GOVERNMENT PRINTING OFFICE: 1987 — 75-833 (m)

Thursday, November 9, 1989
Full Committee
Business Meeting
Federal Meat Inspection Act
Amendments - H.R. 2134
Indian Tribal Ventures Payment
Limitation Amendment -
H.R. 3620
Earthquake Disaster Assistance -
H.R. 3589
Hurricane Hugo Forestry
Restoration Act - H.R. 3482

Action Taken:

-- Without objection Stenholm substitute amendment to H.R. 2134 approved.

-- By voice vote H.R. 2134, as amended, ordered reported to the House.

-- By voice vote Huckaby substitute amendment to H.R. 3620 adopted.

-- By voice vote H.R. 3620, as amended, ordered reported to the House.

-- Without objection Panetta technical amendment to H.R. 3589 agreed to.

-- By voice vote H.R. 3589, as amended, ordered reported to the House.

-- Without objection Volkmer amendment to H.R. 3482 agreed to.

-- By voice vote H.R. 3482, as amended, ordered reported to the House.

Chairman de la Garza called the meeting to order for the purpose of considering pending business.

Mr. Stenholm asked unanimous consent to discharge the Subcommittee on Livestock, Dairy, and Poultry from further consideration of H.R. 2134, and there was no objection. Mr. Stenholm explained the provisions of the bill to amend the Federal Meat Inspection Act to authorize the distribution of wholesome meat for human consumption that has been condemned under that Act to charity and public agencies.

Thursday, November 9, 1989
Full Committee
Business Meeting
Federal Meat Inspection Act
Amendments - H.R. 2134
Indian Tribal Ventures Payment
Limitation Amendment -
H.R. 3620
Earthquake Disaster Assistance -
H.R. 3589
Hurricane Hugo Forestry
Restoration Act - H.R. 3482

Mr. Stenholm also offered the attached substitute amendment. (See attached copy of brief explanation, section by section analysis, and statements of Members.)

Discussion occurred. Without objection the substitute amendment was agreed to and H.R. 2134, as amended, was then ordered reported to the House by a voice vote and in the presence of a quorum.

Mr. Huckaby distributed the attached bill, H.R. 3620, by Mr. Rhodes of Arizona, to clarify the Food Security Act of 1985 to provide protection to landlords, including Indian tribes and others, who cash rent their land to third-party lessees from losing farm program benefits if the lessee is found to be out of compliance with farm program guidelines. Mr. Huckaby further offered the attached substitute amendment and discussion occurred. By a voice vote the substitute amendment was approved and H.R. 3620, as amended, was ordered favorably reported to the House with the recommendation that it do pass in the presence of a quorum.

Mr. Panetta was recognized to explain the attached bill, H.R. 3589, to amend the Disaster Assistance Act of 1989 to provide assistance to agricultural producers suffering from earthquakes. (See attached brief explanation and section by section analysis.)

Lengthy discussion occurred on the legislation and on other possible disaster proposals. Chairman de la Garza asked the Committee to consider the Panetta bill separately and that he would then hope to add other proposals to a possible omnibus disaster bill being considered in the Senate or as free standing proposals which could be considered on the Suspension Calendar.

Members were asked to submit their proposals for the record in order to send a signal to the Department of Agriculture that there are problems which need to be looked into. The attached proposals were received from Messrs. Marlenee, Smith, and Tallon. Further, Members urged that solutions be handled administratively if possible.

Thursday, November 9, 1989
Full Committee
Business Meeting
Federal Meat Inspection Act
Amendments - H.R. 2134
Indian Tribal Ventures Payment
Limitation Amendment -
H.R. 3620
Earthquake Disaster Assistance -
H.R. 3589
Hurricane Hugo Forestry
Restoration Act - H.R. 3482

Mr. Panetta also offered the attached technical amendment to the bill, and without objection the technical amendment was agreed to. Whereupon by a voice vote H.R. 3589, as amended, was ordered reported to the House in the presence of a quorum.

Mr. Volkmer called for the consideration of H.R. 3482, and asked that the Subcommittee on Forests, Family Farms, and Energy be discharged from further consideration of the bill to provide disaster assistance to private timber producers for the reestablishment of timber stands necessitated by Hurricane Hugo (copy of bill attached).

Discussion occurred and Mr. Volkmer offered the attached amendment to provide (1) for a deadline on assistance requests, (2) for a transfer of funds to meet the needs of the natural disaster; (3) for regulations to implement the legislation, and (4) for a payment limitation of $50,000.

Without objection the Volkmer amendment was agreed to. Whereupon by a voice vote H.R. 3482, as amended, was ordered reported to the House in the presence of a quorum.

Staff was given permission to make any necessary clerical and technical changes in the bills ordered reported to the House.

Chairman de la Garza asked the Committee for authority explore possibilities for adding bills which have been considered in Subcommittee or the disaster proposals referred to above to other measures moving through the House in order to expedite consideration of the various pieces of legislation during the first session of the 101st Congress. He assured Members that they would be protected on any measures that might be controversial in nature and would keep them informed. There was no objection.

At 10:55 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

I

101ST CONGRESS
1ST SESSION

H. R. 2134

To amend the Federal Meat Inspection Act to authorize the distribution of wholesome meat for human consumption that has been condemned under that Act to charity and public agencies.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 1989

Mr. SMITH of Florida (for himself, Mr. LELAND, Mr. FASCELL, Mr. TOWNS, Mr. JOHNSON of South Dakota, Mr. KOSTMAYER, Mr. PENNY, Mr. BATEMAN, Mr. HENRY, Mr. FAUNTROY, Mr. ACKERMAN, Mr. AUCOIN, Mr. HUGHES, Mrs. COLLINS, Mr. MORRISON of Connecticut, Mr. ATKINS, Mr. DYMALLY, Ms. PELOSI, Mr. OWENS of Utah, Mr. COSTELLO, Mrs. UNSOELD, Mr. ROBERT F. SMITH, Mr. LAUGHLIN, Mr. MCCURDY, and Mrs. LLOYD) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To amend the Federal Meat Inspection Act to authorize the distribution of wholesome meat for human consumption that has been condemned under that Act to charity and public agencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403(a) of the Federal Meat Inspection Act (21 U.S.C. 673) is amended—

(1) in the second sentence, by inserting after "United States" the following: "or if it is capable of

use as a human food and if it has been inspected under this Act, it may as the court may direct, after entry of the decree, be distributed without charge to nonprofit, private entities or to State, local, and Federal entities engaged in the distribution of food without charge to individuals,", and

(2) by adding at the end the following: "The United States may not be held legally responsible for any article or animal which was distributed under the second sentence to a nonprofit, private entity or to a State, local, or Federal entity and which was found after inspection under this Act to be capable of use as a human food, and the person from whom such article or animal was seized and condemned may not be held legally responsible for such article or animal if it was found after inspection under this Act to be capable of use as a human food.".

SMITFL014

AMENDMENT TO H.R. 2134

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. DISTRIBUTION OF CERTAIN MEAT TO CHARITY AND PUBLIC AGENCIES.

Section 403(a) of the Federal Meat Inspection Act (21 U.S.C. 673(a)) is amended--

(1) in the first sentence, by redesignating clauses (1) through (3) as clauses (A) through (C), respectively;

(2) by designating the first through fourth sentences as paragraphs (1) through (4), respectively;

(3) in paragraph (2) (as so designated), by inserting after ``United States'' the following: ``or distributed in accordance with paragraph (5)''; and

(4) by adding at the end thereof the following new paragraph:

``(5)(A) An article that is condemned under paragraph (1) may as the court may direct, after entry of the decree, be distributed without charge to nonprofit, private entities or to Federal, State, or local entities engaged in the distribution of food without charge to individuals, if such article--

``(i) has been inspected under this Act and found to

be wholesome and not to be adulterated within the meaning of paragraphs (1) through (7) and (9) of section 1(m) at time of the entry of the decree; and

``(ii) is plainly marked `Not for Sale' on such article or its container.

``(B) The United States may not be held legally responsible for any article that is distributed under subparagraph (A) to a nonprofit, private entity or to a Federal, State, or local entity, if such article was found after inspection under this Act to be--

``(i) wholesome and not be adulterated within the meaning of paragraphs (1) through (7) and (9) of section 1(m) at time of the entry of the decree; and

``(ii) marked `Not for Sale' on such article or its container.

``(C) The person from whom such article was seized and condemned may not be held legally responsible for such article, if such article was found after inspection under this Act to be--

``(i) wholesome and not to be adulterated within the meaning of paragraphs (1) through (7) and (9) of section 1(m) at time of the entry of the decree; and

``(ii) marked `Not for Sale' on such article or its container.''.

SEC. 2. DISTRIBUTION OF CERTAIN POULTRY PRODUCTS TO CHARITY

SMITFL014

3

AND PUBLIC AGENCIES.

Section 20(a) of the Poultry Products Inspection Act (21 U.S.C. 467b(a)) is amended--

(1) in the first sentence, by redesignating claues (1) through (3) as clauses (A) through (C), respectively;

(2) by designating the first through fourth sentences as paragraphs (1) through (4), respectively;

(3) in paragraph (2) (as so designated), by inserting after ``United States'' the following: ``or distributed in accordance with paragraph (5)''; and

(4) by adding at the end thereof the following new paragraph:

``(5)(A) An article that is condemned under paragraph (1) may as the court may direct, after entry of the decree, be distributed without charge to nonprofit, private entities or to Federal, State, or local entities engaged in the distribution of food without charge to individuals, if such article--

``(i) is capable of use as a human food;

``(ii) has been inspected under this Act and found to be wholesome and not to be adulterated within the meaning of paragraphs (1) through (7) of section 4(g) at time of the entry of the decree; and

``(iii) is plainly marked `Not for Sale' on such article or its container.

``(B) The United States may not be held legally responsible for any article that is distributed under subparagraph (A) to a nonprofit, private entity or to a Federal, State, or local entity, if such article was found after inspection under this Act to be--

``(i) wholesome and not be adulterated within the meaning of paragraphs (1) through (7) of section 4(g) at time of the entry of the decree; and

``(ii) marked `Not for Sale' on such article or its container.

``(C) The person from whom such article was seized and condemned may not be held legally responsible for such article, if such article was found after inspection under this Act to be--

``(i) wholesome and not to be adulterated within the meaning of paragraphs (1) through (7) of section 4(g) at time of the entry of the decree; and

``(ii) marked `Not for Sale' on such article or its container.''.

BRIEF EXPLANATION OF

AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2134

OFFERED BY MR. STENHOLM

NOVEMBER 9, 1989

H.R. 2134 will amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to--

(1) allow, as the court may direct, an article condemned under the Acts, after entry of the decree, to be distributed without charge to nonprofit, private entities or to Federal, State, or local entities engaged in the distribution of food without charge to individuals, if the article has been inspected under the Federal Meat Inspection Act or Poultry Products Inspection Act and found to be wholesome and not to be adulterated at the time of the entry of the decree, and is plainly marked "Not for Sale" on the article or its container; and

(2) provide that the United States may not be held legally responsible for any article that is distributed to a nonprofit, private entity or to a Federal, State, or local entity, or that the person from whom the article was seized and condemned may not be held legally responsible for the article, if the article was found, after inspection under the Federal Meat Inspection Act or Poultry Products Inspection Act, to be wholesome and not be adulterated at time of the entry of the decree, and marked "Not for Sale" on the article or its container.

SECTION BY SECTION ANALYSIS OF

AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2134

OFFERED BY MR. STENHOLM

NOVEMBER 9, 1989

Section 1--Distribution of Certain Meat to Charity and Public Agencies

Section 1 will amend section 403(a) of the Federal Meat Inspection Act (21 U.S.C. 673(a)) to add a new paragraph (5) that will allow, as the court may direct, an article condemned under section 403(a)(1), after entry of the decree, to be distributed without charge to nonprofit, private entities or to Federal, State, or local entities engaged in the distribution of food without charge to individuals, if the article--

(1) has been inspected under the Federal Meat Inspection Act and found to be wholesome and not to be adulterated within the meaning of sections 1(m)(1), (2), (3), (4), (5), (6), (7), and (9)[1] at the time of the entry of the decree;

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[1]Section 1(m) of the Federal Meat Inspection Act, in paragraphs (1)-(7), and (9), provides that the term "adulterated" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health, but in case the substance is not an added substance, such article shall not be consider adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

(2)(A) if it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is a pesticide chemical in or on a raw agricultural commodity, a food additive, or a color additive) which may, in the judgment of

and

(2) is plainly marked "Not for Sale" on the article or its container.

In addition, section 1 will provide that the United States may not be held legally responsible for any article that is distributed under section 403(a)(5)(A) to a nonprofit, private entity or to a Federal, State, or local entity, or that the person from whom the article was seized and condemned may not be held legally responsible for the article, if the article was

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the Secretary, make such article unfit for human food;
(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act,
(C) if it bears or contains any food additive which is unsafe within the meaning 409 of the Federal Food, Drug, and Cosmetic Act,
(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act, Provided, that an article which is not adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Secretary in establishments at which inspection is maintained under title I of the Federal Meat Inspection Act;
(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;
(4) it if has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;
(5) if it is, in whole or in part, the product of an animal which has died otherwise than by slaughter;
(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;
(7) if it has been intentionally subject to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act; or
(9) if it is margarine containing animal fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance.

found to be, after inspection under the Federal Meat Inspection Act--

(1) wholesome and not be adulterated within the meaning of section 1(m)(1), (2), (3), (4), (5), (6), (7), and (9) at time of the entry of the decree; and

(2) marked "Not for Sale" on the article or its container.

Section 2--Distribution of Certain Poultry Products to Charity and Public Agencies

Section 2 will amend section 20(a) of the Poultry Products Inspection Act (21 U.S.C. 467b(a)) to add a new paragraph (5) that will allow, as the court may direct, an article that is condemned under section 20(a)(1) , after entry of the decree, to be distributed without charge to nonprofit, private entities or to Federal, State, or local entities engaged in the distribution of food without charge to individuals, if the article--

(1) is capable of use as a human food;

(2) has been inspected under the Poultry Products Inspection Act and found to be wholesome and not to be adulterated within the meaning of sections 4(g)(1), (2), (3), (4), (5), (6), and (7),[2] at time of the entry of the

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[2]Section 4(g) of the Poultry Products Inspection Act provides that the term "adulterated", in paragraphs (1)-(7), shall apply to any poultry product under one or more of the following circumstances:
(1) if it bears or contains any poisonous or deleterious substance which may render it injurious to health, but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render

decree; and

(3) is plainly marked "Not for Sale" on the article or its container.

In addition, section 2 will provide that the United States may not be held legally responsible for any article that is distributed under section 20(a)(5)(A) to a nonprofit, private entity or to a Federal, State, or local entity, or that the

---

it injurious to health;
(2)(A) if it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one which is a pesticide chemical in or on a raw agricultural commodity, a food additive, or a color additive) which may, in the judgment of the Secretary, make such article unfit for human food;
(B) if it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;
(C) if it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;
(D) if it bears or contains any color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act, Provided, that an article which is not otherwise deemed adulterated under clause (B), (C), or (D) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive in or on such article is prohibited by regulations of the Secretary in official establishments;
(3) if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;
(4) if it has been prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;
(5) if it is, in whole or in part, the product of any poultry which has died otherwise than by slaughter;
(6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
(7) if it has been intentionally subjection to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act.

person from whom the article was seized and condemned may not be held legally responsible for the article, if the article was found after inspection under the Poultry Products Inspection Act to be--

(1) wholesome and not be adulterated within the meaning of sections 4(g)(1), (2), (3), (4), (5), (6), and (7) at time of the entry of the decree; and

(2) marked "Not for Sale" on the article or its container.

STATEMENT OF CONGRESSMAN TIM JOHNSON ON H.R. 2134

Mr. Chairman, as an original cosponsor of H.R. 2134, I'm pleased to join with Mr. Stenholm in urging the adoption of the proposed amendment in the nature of a substitute.

Our colleague from Florida is to be commended for taking the initiative on this issue after learning that over 7,000 pounds of beef could have been destroyed simply because it was mislabeled with the wrong grade. Fortunately, the U.S. District Court of South Florida allowed the meat which had been confiscated by the federal government to be donated to a local food bank in Miami. This proposed change in the Federal Meat Inspection Act would provide the courts with the option of donating confiscated meat to non-profit, charitable organizations or state, local and federal entities involved in the free distribution of food to the needy.

Again, it is my hope that you will support this bill. IT contains provisions to ensure that the meat would be totally safe for human consumption before being donating, and once this has been assured, the U.S. and the private individuals involved would be released from any liability. This move is strongly supported by Second Harvest, a group which coordinates the distribution of food products to local food banks, and which has affiliates in many states, including my own state of South Dakota. I also want to thank the American Meat Institute for giving their support to this effort as well.

Mr. Chairman, thank you, and I urge the adoption of the amendment.

OPENING STATEMENT OF REP. LARRY SMITH
MARK UP OF THE WHOLESOME MEAT TO CHARITY DISTRIBUTION ACT
THURSDAY, NOVEMBER 8, 1989

Mr. Chairman, I want to thank you for holding this mark up today and for allowing my legislation to be heard before the full committee. Also, I want to express my deep appreciation and gratitude to Congressman Stenholm for his enthusiastic support for this legislation.

On April 26, along with 16 other members, I introduced the Wholesome Meat Distribution Act to fill a void in existing law. This legislation has a simple but pragmatic purpose: it will allow federal courts to donate to charities meat which has been fraudulently "mislabled" but is otherwise perfectly wholesome and capable of being used as food.

According to the current law, federal courts are required to dispense with meat that has come into their possession by either destroying it or reselling it. My bill would provide the courts with a third option: donating the meat to charity.

In most cases, meat is seized by the federal government because it is fraudulently "mislabled" as being of a higher quality than it is in reality. The fact that this meat has been "mislabled" in no way impairs the quality or wholesomeness of the meat. As I mentioned earlier, the courts do not have the authority to donate this food to the neediest segments of American society. I find this situation

totally unacceptable considering that millions of our constituents go hungry every day.

It is very important to emphasize that any meat donated to charity as provided for in this legislation must have already passed the established federal standards. Any meat that fails to satisfy existing inspection procedures is prohibited from being distributed to charity under this act. Simply put, all meat which is donated under this act must pass the same tests as the meat you and I would buy in our local grocery store.

This legislation would cost the American taxpayer no money and would make a significant contribution to our government's effort to fight hunger in this country. I would urge each one of you to support its passage.

(Original Signature of Member)

101st CONGRESS
1st SESSION

H.R. 3620

Insert title here

A Bill to clarify the Food Security Act of 1985

IN THE HOUSE OF REPRESENTATIVES

November 8, 1989

Insert sponsor's names ere

MR. RHODES (for himself, Mr. Udall and Mr. Stump) introduced the following bill; which was referred to the Committee on Agriculture.

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That subparagraph 1001(5)(D) of the Food Security Act of 1985 is amended by:

(1) Inserting "(i)" after the word "unless";

(2) Striking out the period at the end thereof and inserting in lieu thereof a comma; and

(3) Inserting at the end thereof the following language: "or (ii) with respect to leases in effect on or after January 1, 1990, involving a tribal landlord (a) the land was leased pursuant to federal statutes governing leasing of lands on Indian reservations, (b) the lease was approved by the Secretary of the Interior, and (c) the cash rent tenant has a farm operating plan approved by the Secretary of Agriculture prior to its first participation during the lease term in any program under this Section 1001. Any cash rent tenant that fails to meet the requirements of this subparagraph 1001(5)(D) shall be considered ineligible to receive farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) applicable to the crop year for which such failure to meet the requirements occurred."

Indian Tribal Ventures
Payment Limitation Amendment

As a result of the application of the 1987 Amendments to the Food Security Act of 1985 by the Department of Agriculture, a severe economic hardship threatens to be imposed on Indian tribes. The proposed legislation will correct this egregious situation, which results from the interrelationship of the 1987 Amendments and the unique status of Indian tribes and their lands. If not remedied, the 1987 Amendments could eliminate a substantial portion of the revenues upon which Indian tribes rely to carry out their governmental operations and to provide basic governmental services, such as schools, police and fire protection, social programs, and the like. The proposed amendment furthers the goals and policies of the United States which support and encourage Indian self-determination and economic self-sufficiency.

- In 1978, the Department of Agriculture ("USDA") payment limitation regulations were amended to exempt Indian tribes. The exemption was from the requirements for the number and amount of payments which could be received under USDA programs. The tribal exemption placed an upper limit on the amount of payments based upon the number of tribal members. See 7 C.F.R. §795.2(d) (attachment A hereto). From 1978 to 1988, Indian tribal farming ventures participated in USDA programs without having to comply with the payment limitation provisions. Tribal farming operations were planned and conducted in reliance on the existence of this exemption. In addition to other business factors, tribes established farming operations in reliance on, to comply with, and to benefit from the then existing law.

- Nothing in the legislative history of the Food Security Act of 1985 or the amendments to that Act contained in the Agricultural Reconciliation Act of 1987 indicates that the Indian exemption was even considered by Congress.

- In April of 1988, USDA issued proposed payment limitation regulations restricting the tribal exemption to lands owned or held in trust for an Indian tribe. There was nothing in the 1985 Act, its amendments or its legislative history that requires or even suggests Congress intended a change in the treatment of Indian tribes under the existing regulations. These revised regulations were made final on August 5, 1988. See 53 Fed. Reg. (attachment B hereto). The change in the regulations jeopardized the viability of Indian tribal farming ventures, causing some to be discontinued.

- Beginning in early 1989, the Indian agricultural community became aware, through verbal and written means, that USDA had made various "interpretations" of its 1988 regulations. These interpretations have the effect of preventing Indian tribal farming ventures from benefitting from USDA programs. One interpretation penalizes a tribe for non-compliance by a third-party lessee who leases land pursuant to Bureau of Indian Affairs regulations, 25 C.F.R. Part 162, and over whose internal operations the Tribe has no control. Such interpretation would combine the Tribe with the non-complying lessee for payment limitation purposes, and thus limit the Tribe and the non-complying lessee to a single $50,000 payment.

- The proposed legislation is designed to prevent tribes from being penalized by the actions of third-party lessees. The legislation would amend 7 U.S.C. §1308(5)(D) by providing that where a Tribe cash rents land on the reservation to a lessee, the Tribe will not be penalized if the lessee subsequently is found to be out of compliance, so long as (a) the land was leased pursuant to federal statutes governing leasing of lands on Indian reservations, (b) the lease was approved by the Secretary of the Interior, and (c) the tenant has a farm operating plan approved by the Secretary of Agriculture prior to its first participation during the lease term in any program under the Food Security Act of 1985. See attachment C hereto.

- From the mid-1960's to the present, the Executive Branch and Congress have sought to provide mechanisms whereby the severely underdeveloped and poverty stricken reservation economies could, through tribal efforts, begin to establish an economic base for the members of the tribe. See, for example, the July 8, 1970 New Policy of Self-Determination Without Termination Set Forth by President, the Indian Self-Determination and Education Assistance Act, the Indian Financing Act, the Indian Mineral Development Act, and the Indian Governmental Tax Status Act. The proposed amendment is fully consistent with these policies and statutes, and the goals they were intended to achieve -- self-determination and economic self-sufficiency for Native Americans.

- The trust responsibility of the United States in its relationship with Indians extends to all federal agencies, including the Department of Agriculture. USDA, in handling matters involving Indians and

Indian tribes, has an obligation of the highest responsibility and trust pursuant to exacting fiduciary standards to discharge its trust with good faith and fairness. The proposed legislation would make clear to USDA that Congress did not intend to effect an unreasonable hardship on Indian agriculture. Further, by adopting the proposed legislation, USDA is provided a clear basis from which to fulfill its trust responsibilities.

The Indian agricultural community has worked closely with the Senate Agriculture Committee staff, as well as with the Department of Agriculture, to outline the nature of the problem, to determine that there exists no administrative solution, and to develop the suggested language to correct the egregious effects being imposed on Indian agriculture.

Amendment to HR 3620
Mr. Huckaby

After the enacting clause, strike out all that follows and insert the following in lieu thereof:

That subparagraph 1001(5) (D) of the food Security Act of 1985 is amended by :

(1) Inserting "(i)" after the word "unless";

(2) Striking out the period at the end thereof and inserting in lieu thereof a comma; and

(3) Inserting at the end thereof the following language:

"or (ii) with respect to leases in effect on or after January i, 1990, (a) the cash rent tenant has a farm operating plan approved by the Secretary of Agriculture prior to its first participation during the lease term in any program under this Section 1001, and (b) the landlord is without knowledge that the cash rent tenant does not meet the requirements set forth in this subparagraph. Any cash rent tenant that fails to meet the requirements of this subparagraph 1001 (5) (D) shall be considered ineligible to receive farm program payments (as described in paragraphs (1) and (2) of section 1001 as being subject to limitation) applicable to the crop year for which such failure to meet the requirements occurred.

101ST CONGRESS
1ST SESSION

H. R. 3589

To amend the Disaster Assistance Act of 1989 to provide assistance to agricultural producers suffering from earthquakes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 1989

Mr. PANETTA (for himself, Mr. LEWIS of California, Mr. HERGER, Mr. CONDIT, Mr. BROWN of California, and Mr. THOMAS of California) introduced the following bill; which was referred to the Committee on Agriculture

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A BILL

To amend the Disaster Assistance Act of 1989 to provide assistance to agricultural producers suffering from earthquakes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ANNUAL CROPS.

(a) NONPROGRAM CROPS.—Section 104(d)(1) of the Disaster Assistance Act of 1989 is amended by inserting "and ornamentals" after "sweet potatoes".

(b) DEFINITIONS.—Section 112(1) of such Act is amended by inserting "earthquake," after "hurricane.".

SEC. 2. ORCHARDS.

(a) ELIGIBILITY.—Section 121(a) of the Disaster Assistance Act of 1989 is amended to read as follows:

"(a) LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 122, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze, earthquake, or related condition in 1989, as determined by the Secretary.".

(b) ASSISTANCE.—Section 122(1) of such Act is amended by inserting ", earthquake," after "freeze".

SEC. 3. FOREST CROPS.

(a) ELIGIBILITY.—Section 131(a) of the Disaster Assistance Act of 1989 is amended to read as follows:

"(a) LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 132, to eligible tree farmers that planted tree seedlings in 1988 or 1989 for commercial purposes but lost such seedlings as a result of drought, earthquake, or related condition in 1989, as determined by the Secretary.".

(b) ASSISTANCE.—Section 132(1) of such Act is amended by inserting ", earthquake," after "drought".

SEC. 4. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES.

Section 401 of the Disaster Assistance Act of 1989 is amended—

(1) in paragraph (a)(1), by inserting "earthquake," after "excessive moisture,"; and

(2) in paragraph (c)(2), by striking out "$200,000,000" and inserting "$300,000,000".

BRIEF EXPLANATION OF H.R. 3589

NOVEMBER 9, 1989

H.R. 3589, as introduced, will amend the Disaster Assistance Act of 1989 to--

(1) amend the definition of nonprogram crops to add commercial crops of ornamentals;

(2) amend the definition of damaging weather to add earthquakes;

(3) require the Secretary of Agriculture to provide assistance to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of earthquakes or related condition in 1989, as determined by the Secretary;

(4) require reimbursement of 65 percent of the cost of replanting trees lost due to earthquake or related condition in 1989 in excess of 45 percent mortality (adjusted for normal mortality);

(5) require the Secretary of Agriculture to provide assistance to eligible tree farmers that planted tree seedlings in 1988 or 1989 for commercial purposes but lost such seedlings as a result of earthquake or related condition in 1989, as determined by the Secretary;

(6) require reimbursement of 65 percent of the cost of replanting seedlings lost due to earthquake or related condition in 1989 in excess of 45 percent mortality (adjusted for normal mortality);

(7) require the Secretary of Agriculture to guarantee loans made in rural areas to public, private, or cooperative

organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities to assist such organizations, tribes, or entities in alleviating the distress caused to such organizations, tribes, or entities, directly or indirectly, by earthquake or related condition in 1988; and

(8) increase from $200,000,000 to $300,000,000 the total amount of loans that may be guaranteed under section 401 of the Act.

SECTION BY SECTION ANALYSIS OF H.R. 3589

NOVEMBER 9, 1989

Section 1--Annual Crops

Section 1, in subsection (a), will amend the definition of nonprogram crops in section 104(d)(1) of the Disaster Assistance Act of 1989 to add commercial crops of ornamentals.

Section 1, in subsection (b), will amend the definition of damaging weather in section 112(1) of the Act to add earthquakes.

Section 2--Orchards

Section 2, in subsection (a), will amend section 121(a) of the Disaster Assistance Act of 1989 to require the Secretary of Agriculture to provide assistance to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of earthquakes or related condition in 1989, as determined by the Secretary.[1]

Section 2, in subsection (b), will amend section 122(1) of the Act to require reimbursement of 65 percent of the cost of replanting trees lost due to earthquake or related condition in 1989 in excess of 45 percent mortality (adjusted for normal mortality).[2]

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[1]Under current law, the Secretary may provide assistance only for losses that resulted from freeze or related condition in 1989, as determined by the Secretary.

[2]Under current law, the Secretary may provide reimbursement of 65 percent of the cost of replanting trees lost due only to freeze or related condition in 1989 in excess of 45 percent mortality (adjusted for normal mortality).

Section 3--Forest Crops

Section 3, in subsection (a), will amend section 131(a) of the Disaster Assistance Act of 1989 to require the Secretary of Agriculture to provide assistance to eligible tree farmers that planted tree seedlings in 1988 or 1989 for commercial purposes but lost such seedlings as a result of earthquake or related condition in 1989, as determined by the Secretary.[3]

Section 3, in subsection (b), will amend section 132(1) of the Act to require reimbursement of 65 percent of the cost of replanting seedlings lost due to earthquake or related condition in 1989 in excess of 45 percent mortality (adjusted for normal mortality).[4]

Section 4--Disaster Assistance for Rural Business Enterprises

Section 4 will amend section 401(a)(1) of the Disaster Assistance Act of 1989 to require the Secretary of Agriculture to guarantee loans made in rural areas to public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities to assist such organizations, tribes, or entities in alleviating the distress caused to such organizations, tribes, or entities, directly or indirectly, by

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[3]Under current law, the Secretary may provide assistance only for losses that resulted from drought or related condition in 1989, as determined by the Secretary.

[4]Under current law, the Secretary may provide reimbursement of 65 percent of the cost of replanting seedlings lost due only to drought or related condition in 1989 in excess of 45 percent mortality (adjusted for normal mortality).

earthquake or related condition in 1988.[5]

In addition, Section 4 will amend section 401(c)(2) of the Act to increase from $200,000,000 to $300,000,000 the total amount of loans that may be guaranteed under section 401 of the Act.

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[5]Under current law, the Secretary may guarantee loans only to alleviate the distress caused directly or indirectly, by the drought, freeze, storm, excessive moisture, or related condition in 1988 or 1989.

TECHNICAL AMENDMENT TO H.R. 3589

OFFERED BY MR. PANETTA

On page 1, strike line 6 and insert the following:

"'ornamentals affected by earthquakes and' after '(including'.".

AMENDMENT OFFERED BY MR. MARLENEE

At the end of the bill, add the following new section:

"Sec.____. At the end of section 110 of the Disaster Assistance Act of 1989 (P.L.101-82, 103 STAT.574), as amended, add the following new subsection:

(e) This section shall apply to all instances in which a replacement crop is planted by a producer because of loss or damage to a first crop due to damaging weather or related condition in 1988 or 1989 without regard to whether or not the type of replacement crop which is planted is identical to, similar to, or different from the first crop, and further, notwithstanding any other provision of law, this section shall apply to instances wherein a producer of a first crop of ~~winter wheat~~ 2 commodity has replanted a replacement crop of ~~spring wheat~~ the same commodity, and such first crop of ~~winter wheat~~ the commodity shall not be deemed ineligible (due to a replacement crop planting of ~~spring wheat~~ the same commodity) for any disaster payments for which such ~~winter wheat~~ first crop may be otherwise eligible pursuant to this Act.".

AMENDMENT OFFERED BY MR. BOB SMITH, OF OREGON

At the end of the bill, add the following new section:

"Sec.____. (a) Notwithstanding any provision of law, the Secretary of Agriculture shall initiate and operate a program designed to remove stocks of wheat or barley from the 1989 crop of such grains which have been sprout damaged, and shall accomplish this program by utilizing one or both of --

(1) a sale or sales of such sprout-damaged grains to foreign purchasers under the export enhancement program established pursuant to section 5(f) of the Commodity Corporation Charter Act (15 U.S.C. 714c(f)), or

(2) the operation of a special loan and purchase program for such sprout-damaged grains by offering producers of such crops on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1989 crops of wheat or feed grains nonrecourse loans equal to not less than 80 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop.

(b) In carrying out the program provided in subsection (a) of this section, the Secretary --

(1) shall operate the program in a manner designed to discourage or eliminate any incentives to blend sprout-damaged grains with grains of a higher quality;

(2) shall insofar as practicable ensure that stocks of sprout-damaged wheat or barley are segregated from stocks of higher quality, and that sprout-damaged grains are clearly identified for feed use only to prevent their use in food grain marketings;

(3) shall ascertain that foreign purchasers of sprout-damaged grains are clearly aware of the quality of such cargoes, and that such foreign purchasers will utilize such grains for feed purposes only;

(4) may require that a producer who is offered a special nonrecourse loan pursuant to paragraph (a)(2) of this section agree that such loan may be called due at any time following 30 days from the date such loan was made, and that upon notification of such action, by placing in the U. S. Mail a certified notice, each producer shall have seven business days in which to redeem the crop upon which the loan was made or forfeit such collateral.".

AMENDMENT #1 TO H.R. 3589

OFFERED BY MR. TALLON

H.R. 3589 is amended by adding at the end the following:

"SEC. 6. COST-SHARE ASSISTANCE.

"(a) Tree Planting Cost-share Program.--For the purpose of encouraging tree owners to reestablish stands damaged by Hurricane Hugo with commercial tree seedlings for the production of timber and related products, the Secretary of Agriculture shall develop and implement a tree planting cost-share program to provide financial assistance to owners of private timber stands that were damaged, as determined by the Secretary, in 1989 by Hurricane Hugo. This assistance shall only be made available in those counties in South Carolina, North Carolina, Puerto Rico, and the United States Virgin Islands declared by the President to be disaster areas as a result of Hurricane Hugo and any county contiguous to those counties.

"(b) Eligible Practices.--Practices eligible for cost-share assistance under this section are --

"(1) reforestation;

"(2) site preparation; and

"(3) such other timber stand reestablishment practices as may be prescribed by the Secretary.

"(c) Private Timber Stands.--(1) For the purpose of this section, the term "private timber stand" means a stand of trees of 1,000 acres or less held continuously during the period described in paragraph (2) for commercial purposes by a private individual, group, association, corporation, Indian tribe or

other native Indian group, or other legal entity, except agencies of Federal, State, or local governments. Such term does not include a stand of trees transferred after the date on which such stand was damaged by Hurricane Hugo except for a stand of trees transferred by bequest, devise or inheritance, or acquired from a descendent by reason of death, form of ownership, other condition (including trees acquired through the exercise or nonexercise of a power of appointment).

"(2) The period referred to in paragraph (1) is the period beginning on the date on which such trees were damaged by Hurricane Hugo and ending at the time the request is made for assistance under this section.

"(d) Individual Forest Management Plans.-- The Secretary may provide assistance under this section with respect to a stand of trees only after a management plan for that stand has been developed by the holder of the stand in cooperation with, and approved by, the State forester or equivalent State official. The Secretary shall encourage States to use private agencies, consultants, organizations, and firms to the extent feasible for the preparation of such management plans.

"(e) Cost Share.--The amount of the Federal cost-share (including labor) for an eligible practice shall be 75 percent of the total cost of implementing eligible practices, regardless of their type, size or condition. For the purpose of this subsection, the Secretary shall issue regulations defining the term "person" which shall conform, to the extend practicable, to the regulations defining the term "person" issued under section

1001 of the Food Security Act of 1985, as amended (7 U.S.C. 1308).

"(f) Deadline.--Requests for assistance under this section must be filed with the Secretary not later than December 31, 1993.

"(g) Transfer.--The Director of the Federal Emergency Management Agency shall transfer to the Secretary of Agriculture, to carry out the provisions of this section, $100,000,000 of the funds provided under section 108(a) of the fiscal year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disaster of National Significance (Public Law 101-130).

"(h) Regulations.--The Secretary shall issue regulations to implement the provisions of this section as soon as practicable after the date of the enactment of this Act, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code.".

AMENDMENT #2 TO H.R. 3589

OFFERED BY MR. TALLON

H.R. 3589 is amended by adding at the end the following:

"SEC. __. DISASTER PAYMENT FOR NONPROGRAM CROPS DAMAGED BY HURRICANE HUGO.

"Section 104(a)(1) of the Disaster Assistance Act of 1989 (Public Law 101-82; 103 Stat. 570) is amended by adding at the end thereof the following new subparagraph:

"'(C) Crop Damage Due to Hurricane Hugo.--This subparagraph is applicable only with respect to 1989 nonprogram crops planted in areas declared to be disaster areas by the President due to Hurricane Hugo. For purposes of making a disaster payment under this section, each crop of the same commodity which is planted for harvest on a farm for a different normal harvest period shall, for purposes of paragraph (A), be considered to be a different crop so long as the subsequent crop of such commodity is not planted on the same acreage on the farm as a previous crop of such commodity.'.".

(H.R. 3482 is held in the committee files.)

STRIKE subsections (f), (g) (h), and (i) and insert the following:

~~1001 of the Food Security Act of 1985, as amended (7 U.S.C. 1308);~~

"(f) Deadline.--Requests for assistance under this ~~section~~ Act must be filed with the Secretary not later than December 31, 1993.

"(g) Transfer.--The Director of the Federal Emergency Management Agency shall transfer to the Secretary of Agriculture, to carry out the provisions of this ~~section~~ Act, $100,000,000 of the funds provided under section 108(a) of the fiscal year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disaster of National Significance (Public Law 101-130).

"(h) Regulations.--The Secretary shall issue regulations to implement the provisions of this ~~section~~ Act as soon as practicable after the date of the enactment of this Act, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code."

"(i) Payment Limitation.--The total amount of payments that a person shall be entitled to receive under this Act may not exceed $50,000."

Vollmer Amendment

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Monday, November 13, 1989

(Sub) Committee: Full

Public Field Hearing

met at 9:00 a.m. o'clock, in Room Laverne Banquet Hall, Wingate College, Wingate, North Carolina

for the purpose of reviewing issues relating to the formulation of the 1990 farm bill

The following Members were present:

Mr. Glickman	Mr. Walsh	Members Also Present:
Mr. Stenholm	Mr.	Mr. Hefner
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
Greg Frazier, Subcommittee Staff Director
Joe Dugan, Assistant Press Secretary

Witnesses:

1. Honorable James A. Graham, Commissioner of Agriculture, North Carolina Department of Agriculture, Raleigh, North Carolina

2. Panel:

   Dr. Billy E. Caldwell, Assistant Director, Agriculture and Natural Resources, North Carolina State University, Raleigh, North Carolina

   Ms. Patricia M. Reilly, Student and 4-H Member, Raleigh, North Carolina

3. Panel:

   Mr. W. Chester Lowder, representing North Carolina Farm Bureau, Norwood, North Carolina

   Mr. John A. Suther, representing North Carolina State Grange, Concord, North Carolina

   Mr. Benny Bunting, President, Southeastern United Farmers Organization, Oak City, North Carolina

4. Panel:

   Mr. Jack F. Shore, President, North Carolina Cattlemen's Association, Yadkinville, North Carolina

   Mr. Sam O. Starnes, representing North Carolina Turkey Federation, Inc., Monroe, North Carolina

   Mr. Allan L. Baucom, representing North Carolina Pork Producers Association, Inc., Monroe, North Carolina

   Mr. Kenneth Mills, Producer, Marshville, North Carolina

5. Panel:

   Mr. C. Spurgeon Brooks, Producer, Richfield, North Carolina

   Mr. Donald J. Lambeth, Producer, Ellerbe, North Carolina

   Mr. David N. Stallings, Producer, Albemarle, North Carolina

   Mr. Willliam C. Gallimore, representing North Carolina Peach Growers Society, Inc., Ellerbe, North Carolina

6. Panel:

Mr. Earl Hendrix, representing North Carolina Soybean Producers Association, Inc., Raeford, North Carolina

Mr. Edwin H. Hammill, representing North Carolina Corn Growers Association, Gold Hill, North Carolina

Mr. John G. Balfour, representing North Carolina Cotton Promotion Association, Inc., Lumber Bridge, North Carolina

Mr. Ezra C. Tatum, representing North Carolina Soil and Water Conservation Districts, Mocksville, North Carolina

Mr. Richard H. Johnson, President, Pee Dee EMC, Wadesboro, North Carolina

Mr. Jack P. Jordan, Executive Vice President, Jordan Lumber Company, Mt. Gilead, North Carolina

Statements Submitted for the Record:

1. Ms. Martha R. Johnson. Assistant Director In Charge, Home Economics, Agricultural Extension Service, Box 7605, Raleigh, North Carolina

2. Mr. Ted W. Luther, Route 1, Box 229, Mt. Ulla, North Carolina

3. Mr. Paul A. Standridge, President, North Carolina Greenhouse Vegetable Grower's Association, North Carolina State University, Raleigh, North Carolina

4. Mr. Ronald K. Charity, Executive Director, Rural Advancement Fund, 2128 Commonwealth Avenue, Charlotte, North Carolina
and
Ms. Betty T. Bailey, Director, Rural Advancement Fund, P.O. Box 1029, Pittsboro, North Carolina

5. Ms. Edna Harris, Route 1, Box 274, Harmony, North Carolina

6. Mr. James W. Chestnutt, Harriet and Henderson Yarn, P.O. Box 7889, Henderson, North Carolina

Monday, November 13, 1989
Full Committee
Public Field Hearing
Review of Issues Relating to
the Formulation of the 1990
Farm Bill

7. Mr. Donald L. Davis, Union County Farm Bureau, Monroe, North Carolina

8. Mr. George McAuley, Route 18, Box 281, Statesville, North Carolina

Mr. Glickman, Chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains, called the meeting to order for the purpose of reviewing the issues relating to the formulation of the 1990 farm bill. Opening statements were made and the witnesses testified in the order which they appear on pages 2, and 3 of these minutes. Following their presentations the witnesses were questioned by the Members of the Committee.

The hearing was adjourned at 12:30 p.m., to reconvene subject to the call of the chair.

Greg Frazier

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, November 14, 1989

(Sub) Committee: Conservation, Credit, and Rural Development

Business Meeting

met at 10:30 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering H.R. 3581, the Rural Economic Development Act of 1989

The following Members were present:

				Members Also Present:	
Mr.	English	Mr.	Coleman	Mr.	Smith
Mr.	Tallon	Mr.	Morrison	Mr.	
Mr.	Penny	Mr.	Gunderson	Mr.	
Mr.	Stallings	Mr.	Combest	Mr.	
Mr.	Nagle	Mr.	Grandy	Mr.	
Mr.	Harris	Mr.	Holloway	Mr.	
Mr.	Staggers	Mr.		Mr.	
Mr.	Espy	Mr.		Mr.	
Mr.	Sarpalius	Mr.		Mr.	
Ms.	Long	Mr.		Mr.	
Mr.	de la Garza	Mr.		Mr.	
Mr.	ex officio	Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	
				Mr.	
				Mr.	

Staff present:
Dan Brinza, Counsel
John E. Hogan, Minority Counsel
Fred Clark, Majority Associate Counsel
Allie Devine, Minority Associate Counsel
Bill Cherry, Subcommittee Staff Director
Jim McDonald, Subcommittee Consultant
Dave Ebersole, Minority Consultant
Glenda Temple, Clerk
Jim Davis, Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

Present from the Administration to respond to questions:

Mr. Jonathan Kislak, Deputy Under Secretary, Small Communities and Rural Development, U.S. Department of Agriculture, Washington, D.C.

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Rural Economic Development Act
H.R. 3581

Action Taken:

-- By voice vote English-Coleman en bloc amendments adopted.

-- Without objection Coleman technical amendment agreed to.

-- Without objection Morrison amendment on forest dependent communities economic diversification withdrawn.

-- By voice vote Tallon amendment on water and waste loans and grants for consolidation and economies approved.

-- Without objection Grandy proposal on rural development program withdrawn.

-- By voice vote Stallings amendment providing for housing lending by Farm Credit Banks adopted.

-- By voice vote Nagle amendment adding underemployment as consideration agreed to.

-- Without objection Grandy amendment providing for establishment of centers for cooperative research, education, training and development withdrawn.

-- Without objection English-Coleman technical amendment approved.

-- Without objection Tallon amendment reformed.

-- By voice vote Tallon amendment, as reformed, on equitable reallocation of unexpended rural development program funds adopted.

-- By voice vote Penny amendment adding section on agricultural research commercialization agreed to.

-- Without objection Morrison en bloc amendments withdrawn.

-- By voice vote Harris amendment prohibiting duplicate services or assistance approved.

-- Without objection Penny amendment on credit elsewhere test withdrawn.

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Action Taken Continued:

-- By record vote 16 yeas-0 nays H.R. 3581, as amended, ordered reported to the full Committee.

Chairman English called the meeting to order for the purpose of considering H.R. 3581, a bill entitled the "Rural Economic Development Act of 1989". (See attached copy of bill, summary, and section by section analysis.)

Mr. English made brief opening comments as did Mr. Coleman, the Ranking Minority Member of the Subcommittee, and Messrs. Tallon, Morrison and Espy. Chairman English explained the provisions of the legislation, and without objection the bill was open for amendment at any point.

Chairman English, on behalf of himself and Mr. Coleman, offered the attached amendments en bloc and explained those of a clarifying and technical nature and those which provided adjustments to the bill to alleviate concerns which had been raised during hearings. Discussion occurred, and by a voice vote the English-Coleman en bloc amendments were adopted. During the discussion questions were raised by Messrs. Combest and Smith concerning encouraging states to have more participation from rural schools and interests. Mr. English felt the concerns could be taken care of by report language.

Mr. Coleman offered a technical amendment to delete section 101 of the bill. Without objection the Coleman proposal was agreed to.

Mr. Morrison offered the attached amendment to add a new section entitled the "Forest Dependent Communities Economic Diversification Act". Discussion occurred and without objection Mr. Morrison withdrew the amendment to enable the Subcommittee to check with the Subcommittee on Forests, Family Farms, and Energy to make sure there was no objection. Chairman English assured Mr. Morrison that his rights would be protected to offer the amendment in full Committee.

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Mr. Tallon offered the attached amendment on water and waste loans and grants for consolidation and economies. Discussion occurred and without objection the amendment was approved.

Mr. Grandy offered the attached amendment to reauthorize and improve the Rural Development Program created under section 1323 of the Food Security Act of 1985. (See also attached explanation.) Discussion occurred and without objection Mr. Grandy withdrew the amendment for perfecting for full Committee consideration.

Mr. Stallings offered the attached amendment to provide for housing lending by Farm Credit Banks if such loans are discounted through the Federal Agricultural Mortgage Corporation. Discussion occurred and by a voice vote the amendment was adopted.

Mr. Nagle offered the attached amendment which would add "underemployment" as a consideration in making grants. Discussion occurred and by a voice vote the amendment was agreed to. Mr. Nagle stated he would work with interested Members and staff to see if report language would be needed to define "underemployment" prior to the full Committee's consideration of the bill.

Mr. Grandy offered the attached amendment providing for the establishment of centers for cooperative research, education, training, and development. Discussion occurred. Chairman English advised that there were already provisions in the bill which would take care of Mr. Grandy's concerns. Without objection the amendment was withdrawn, and Mr. Grandy's rights were protected to either offer the amendment or report language in the full Committee if he deemed current bill language needed to be expanded to meet his concerns.

Mr. English, on behalf of himself and Mr. Coleman, offered the attached technical amendment which had been omitted from the en bloc amendments previously adopted. Without objection the English-Coleman amendment was agreed to.

Mr. Tallon offered the attached amendment to provide for the equitable reallocation of unexpended rural development program funds. Mr. Tallon advised that he wished to reform his amendment as offered to change the date for reallocating funds from July 1 to July 15, and there was no objection. Discussion occurred and by a voice vote the Tallon amendment, as reformed, was adopted.

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Mr. Penny offered the attached amendment adding a new section entitled "Agricultural Research Commercialization Act". (See also attached copy of explanation.) Discussion occurred and by a voice vote the Penny amendment was agreed to.

Mr. Morrison offered the attached en bloc amendments. Chairman English advised that amendment no. 6 was already in the bill. Discussion occurred on the remaining proposals, and without objection the en bloc amendments were withdrawn for possible full Committee consideration.

Mr. Harris offered the attached amendment to ensure that assistance does not duplicate services or assistance provided by other federal programs or the private sector. Discussion occurred and by a voice vote the Harris amendment was approved.

Mr. Penny offered the attached amendment which would provide for a credit elsewhere test. Discussion occurred and without objection the amendment was withdrawn for possible full Committee consideration.

Mr. Coleman moved that H.R. 3581, as amended, be ordered reported to the full Committee with the recommendation that it do pass. By a voice vote the motion was agreed to. Mr. Morrison requested a recorded vote and a sufficient number of Members supported the request. The vote follows:

Y E A S

1. Mr. Penny
2. Mr. Nagle
3. Mr. Harris
4. Mr. Staggers
5. Mr. Espy
6. Ms. Long
7. Mr. Coleman
8. Mr. Morrison
9. Mr. Combest
10. Mr. Holloway
11. Mr. English
12. Mr. Tallon
13. Mr. Sarpalius (proxy to Mr. English)
14. Mr. Gunderson
15. Mr. Stallings
16. Mr. Grandy

N A Y S

None

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Thus, by a recorded vote of 16 yeas-0 nays, the motion was agreed to and H.R. 3581, as amended, was ordered favorably reported to the full Committee in the presence of a quorum.

During the proceedings one recess was taken at 12:05 p.m. to enable Members to respond to a recorded vote on the House floor. At 1:15 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

(H.R. 3581 is held in the committee files.)

GLENN ENGLISH, OKLAHOMA
Chairman
ROBIN TALLON, SOUTH CAROLINA
TIMOTHY J. PENNY, MINNESOTA
RICHARD H. STALLINGS, IDAHO
DAVID R. NAGLE, IOWA
CLAUDE HARRIS, ALABAMA
HARLEY O. STAGGERS, JR., WEST VIRGINIA
JERRY HUCKABY, LOUISIANA
MIKE ANDREWS, TEXAS
LONG, INDIANA
E. (KIKA) DE LA GARZA, TEXAS
EX OFFICIO MEMBER
WILLIAM THOMAS CAMPBELL
STAFF DIRECTOR

E. THOMAS COLEMAN, MISSOURI
RANKING MINORITY MEMBER
BOB MORRISON, WASHINGTON
STEVE GUNDERSON, WISCONSIN
LARRY COMBEST, TEXAS
FRED GRANDY, IOWA
GLENN C. HOLLOWAY, LOUISIANA
EDWARD R. MADIGAN, ILLINOIS
EX OFFICIO MEMBER
DAVID LEHRSOLE
MINORITY CONSULTANT

U.S. House of Representatives
Committee on Agriculture
Subcommittee on Conservation, Credit, and Rural Development
Room 1301, Longworth House Office Building
Washington, DC 20515

November 8, 1989

SUMMARY OF H.R. 3581
RURAL ECONOMIC DEVELOPMENT ACT OF 1989

Title I--Reorganization of the Department of Agriculture

This title reorganizes portions of USDA to centralize programs which deal with farms and farmers in one supervisory chain and programs which deal with rural development in a separate supervisory chain. This allows the Under Secretary for Small Community and Rural Development to devote his complete attention to the improvement of Rural America.

Section 101 moves agricultural credit and crop insurance functions to the Under Secretary for International Affairs and Commodity Programs. The practical effect of this will be that the Farmers Home Administration and Federal Crop Insurance Corporation will report to this Under Secretary.

Section 102 establishes the Rural Development Administration with an administrator appointed by the Secretary. The RDA will report to the Under Secretary for Small Community and Rural Development. The Rural Electrification Administration will continue to report to this Under Secretary.

Creation of the RDA will require that the Farmers Home Administration be split between functions which provide credit to farms and farmers and those which are designed to foster rural and small community development. As noted in description of Section 101, the farm credit functions will retain the name of Farmers Home Administration.

It is intended that the Secretary will accomplish this division of functions in the most efficient and economical manner. Because FmHA is a nationwide organization with both state and county offices, as well as centralized offices for fiscal and data processing functions, it is recognized that both FrHA and the new RDA may need to enter into agreements to share some facilities and functions. It is recognized that in most instances in the field, RDA and FmHA will be able to occupy and

conduct business from the same offices now being used. In the event that both farm credit and rural development programs are being operated from a small county office with only one or two persons, it is expected that RDA and FmHA will execute agreements to continue the practice with the costs being shared in an equitable manner. Similar agreements should be executed by the agencies to share functions such as personnel, procurement, budgeting, fiscal controls, data processing and the like. It is not intended that an entire new bureaucratic structure be established for the operations of RDA.

Title II--Local Prioritization of Project Funding

This title creates a new delivery system for rural development programs which is designed to use the maximum possible involvement of the people who are affected by the programs and to give them the greatest possible flexibility in meeting their unique rural development needs. In practical terms, it vests the decisions involving priorities with a panel of citizens of a State while reserving the decisions for funding of USDA rural development programs to the Secretary of Agriculture.

Section 201 establishes the system and defines the responsibilities of authorities of the various portions of the system.

Program participation will be based on development plans produced by local areas. These may be plans already in existence, or they may be developed currently. Bill language describes minimum criteria which should be addressed in a plan. The bill does not specify what a local area must be, but it is intended that to the maximum possible extent areas should be composed of multi-county groupings. It is believed that plans which include no more than a single community will have little chance of achieving success because of the lack of long-term economic viability, however if the citizens of a single community believe that is the best route to follow they are allowed to proceed in that manner. Decisions made by local citizens in this context are subject to question only by the state-level review panel discussed below. The bill does not specify who is responsible for developing a local area plan so that citizens in those areas can decide for themselves how the process should be conducted. It is believed that responsible planning requires the maximum participation by local governments, business, industry, finance, transportation, utilities, community leaders, professionals, labor, agriculture, and education.

A Rural Economic Development Review Panel will be established in each State. Membership is designated in the bill to include a wide diversity of persons with knowledge and

interest in the economic development of the State. In order to remove the possibility that the panel's decisions will be dictated by governmental units, the bill specifies the organizations and groups which will be represented. The panel will be composed of 10 persons named by the heads of specified statewide organizations, 2 from other statewide rural development organizations not specified, 3 who are named by university deans of agriculture, business, and engineering, the director of the State government agency responsible for economic and community development, the State director of the Economic Development Administration office, and the State director of the Federal small business development center or the State director of the Small Business Administration office. The Secretary of Agriculture will name one member, and the Governor may be a member or designate someone in his place.

In addition to these members, the Secretary of Agriculture may name other Federal employees to meet with the panel when it is considering plans and projects that need special expertise. These additional persons will not be voting members. Examples of the need for this expertise are instances where a plan includes an airport facility which might need advice from the Federal Aviation Agency or a multi-approach project which includes changes in eduction which might need expertise from the Department of Education. It is also anticipated that the panel will seek out other rural development experts within the academic and research community for advice and assistance.

The panel elects its own chair and vice chair who serve one year terms. The chair and vice chair may serve more than one term. The panel must meet at least quarterly, and it is intended that the panel will reserve available allocations for rank order decisions throughout the year.

Because the panel is composed of citizens who have other duties, the Governor is required to designate a State agency to provide administrative support and a State employee to serve as coordinator. The Secretary is authorized to grant up to $100,000 annually to share the costs of administration for the panel. In carrying out the administrative support functions, it is expected that the State agency will act as the contact point for local areas submitting plans for consideration and for applicants submitting projects for rank ordering. When dealing with project applications, the State agency will be required to prepare for the panel any information about alternative programs and funds which might also be available for such a project.

The panel will have two main duties. The first is to review and approve the plans of the local areas according to criteria in the bill which emphasize long-term economic viability. The second duty is to rank order applications for projects to be funded under programs of the Rural Development Administration.

This duty will require the panel to evaluate the technical aspects of a proposal, that is, marketing plans and projections of a business proposal and similar aspects of an infrastructure proposal.

Prior to reviewing plans or rank ordering projects, the panel must adopt written criteria and procedures in addition to those listed in the bill to be used in reviewing plans and rank ordering projects. The panel must provide for public input when establishing its criteria and procedures, and it must conduct an annual review to see if the criteria and procedures should be updated.

The panel may return a plan submitted by a local area if it does not meet the requirements of the bill or those established by the panel. If it does so, the panel must specify why it is being returned without approval and suggest improvements that would make it acceptable.

Following approval of a local area plan, citizens and communities may submit applications for funding under the programs authorized by law and administered by USDA. The programs listed are those in Sections 304(b), 306(a), subsections (a) through (f) of Section 310B of the Consolidated Farm and Rural Development Act of 1972 and Section 1323 of the Food Security Act of 1985. In general terms these are the water and waste, community facilities, business and industry and rural development loan programs.

It is expected that applications for funding will be submitted to the local, regional or state offices of the Rural Development Administration in the same manner that applications are now submitted to the Farmers Home Administration. It is expected that those Federal offices will begin processing of the applications. In addition, however, applications will also be forwarded for the consideration of the review panel. The review panel may specify how it wishes to receive the applications. The function of the Rural Development Administration will be to determine if the application meets the requirements of the statutes and regulations governing the program. The function of the review panel is to determine if the proposal is economically and technically viable and to assign a priority to the application in relation to all other applications. It is expected that there will be coordination between RDA and the review panel so that project applications which appear not to meet statutory or regulatory requirements will not have to be considered by the panel until those requirements have been met. It should be noted, however, that the review panel's membership includes persons with expertise in the availability of other funding and finance possibilities and the review panel may wish to suggest alternative funding sources to the applicant. It is expected that the review panels will use wide latitude in furthering rural

development in each State. The rank order requirements of the bill apply only to those programs which are listed.

It is expected that the first step in the rank order process by the review panel will be to determine if the proposal fits the approved local area plan.

The panel's rank order is submitted to the Secretary of Agriculture who approves funding for those projects which meet the statutory requirements of the programs. It is anticipated that this language means the rank order will be submitted to the office or official designated by the Secretary and that the Secretary's designees will not substitute their judgement for that of a panel in assigning rank order. A decision to reject a rank-ordered application on grounds other than its failure to meet program regulations shall not be taken lightly.

Flexibility is built into the delivery system by allowing the review panel to rank order applications whose funding requirements do not exceed the aggregate total of funds allocated to the State by the Secretary for the programs authorized under the listed sections of statutes. In funding those applications, the Secretary is authorized to transfer funds from one appropriation to another, if necessary; but he cannot transfer loan authority for grants, or vice versa. The intention is to allow the people who live in a State to decide what projects will be the most beneficial.

The thrust of the delivery system is to further the economic development of Rural America so that rural economies may benefit from the vigor of the national economy and global growth by generating new employment and income-producing opportunities. It encourages the establishment and growth of locally-owned and managed small and very small businesses as an alternative to the practice of trying to recruit an outside business to relocate. The bill tends to establish priority for economic development over what might be described as quality of life development, and beginning in 1991 panels will give precedence to growth over infrastructure except where growth and infrastructure go hand in hand. However, it specifically creates a priority for funding of infrastructure projects which are required to meet declared health emergencies. A health emergency in this context includes not only an immediate declared emergency by a Federal or State agency but a notice from such an agency that a water or sewer system is in danger of being shut down unless improvements are made.

Section 202 section authorizes a review panel to rank order a revolving loan fund for the State which would be administered by a State agency named by the Governor. Funds would be granted by the Secretary from grant funds allocated to the State and cannot exceed 25 percent of the total of all funds allocated.

The panel may exercise this authority only one time. It should be recognized that if a review panel decides to exercise this new authority, it effectively reduces the funding available for other projects in that year.

It is not intended that the revolving loan fund will operate outside the new delivery system. It is intended that the review panel will have the decisive voice in improving the State's economic base in rural areas. The revolving fund is to be administered by a designated State agency, but the final approval for loans rests with the review panel which will use the same evaluation criteria used for rank ordering applications for federal funds; however, revolving fund loan applications will be approved or disapproved rather than rank-ordered. Loans from the fund will be reserved for "very small businesses" which are defined as those with fewer than 30 employees. In this context, it is expected that the State agency will act in the manner of a loan officer in a bank whose function is to determine the viability of the proposal and that the review panel will act in the manner of a loan committee which decides if the loan will be made. The State agency will be responsible for servicing any loans which are approved, and it will also be responsible for the fiscal integrity of the revolving loan fund.

The review panel is authorized to approve loans to capitalize intermediary lending entities.

Funds from other sources may be added to the capital of the revolving loan fund, however this is not required.

Title III--Enhancement of Existing Rural Development Programs

This title amends certain statutory authorities to provide additional expertise and funds for rural development purposes.

Section 301 requires the Rural Electrification Administration to use three percent of its salaries and expenses appropriation to establish a technical assistance unit. The unit's function will be to advise and assist rural electric cooperatives to become involved in rural economic development projects in the areas they serve. It is expected that the Secretary will require the technical assistance unit in REA to obtain information from the information center established in the National Agriculture Library under Section 401. The Secretary will also require the technical assistance unit to give the Library all rural development information that it acquires from all sources as well as develops on its own.

Section 302 allows rural electric cooperatives to defer loan payments in an amount equal to their investment in local business or community development projects. The coops will be required

to make a cushion-of-credit payment in an amount equal to the payment deferment; interest will be earned by the coop on the amounts paid to the cushion-of-credit account. The deferred payment will be repaid in a certain time period, but no interest will be accrued during the deferment period.

Section 303 raises the population limit for rural housing loans by Farm Credit Banks from 2,500 to 20,000.

Section 304 raises the population limit for pooling of housing loans by Farmer Mac from 2,500 to 20,000.

Section 305 gives the Farm Credit System's banks for cooperatives two additional authorities for making water and waste facility loans. The first will be to cooperatives formed for the specific purpose of establishing or operating such systems. During the Subcommittee's hearings, it was learned that in some cases rural areas are not eligible for assistance from any program. This is intended to meet that need.

The second will be to municipalities of up to 20,000 population for the specific purposes of expanding systems for economic development or to address health-related problems of the inhabitants of those municipalities. EPA estimates that the 1986 amendments to the Safe Drinking Water Act will require nearly 30,000 water systems serving fewer than 500 people and nearly 14,000 systems serving between 500 and 10,000 to be upgraded during the 1990s. This authority will provide an additional source of funding to meet this need.

Section 306 lowers the cap on business and industry loans from $25 million to $1 million, and emphasis will be placed on assistance for small and very small businesses. "Small" businesses are those which fit the definition of the Small Business Administration and "very small" businesses are those with no more than 30 employees. The intention is that the limited funds ($95.7 million in FY 1989) be used to foster business growth in more areas of the nation (only 60 loans in FY 1989). Testimony in field hearings before the Subcommittee showed that oftentimes, very small loans (less the $10,000) are needed to start new businesses--but no lending source is available.

Section 307 amends the water and waste program statutory language to include rural businesses in addition to purposes already in law. The Subcommittee was told that current practices in USDA make it impossible for a rural water district or community to increase the size of its system to accommodate a new industry. The amendment will remove that bar to growth. It is expected that this authority will be used in connection with actual needs for business expansion rather than for such

activities as creation of an industrial park in the hope that it might attract new businesses.

Title IV--Rural Development Information Sharing and Technology Transfers.

This title is designed to increase the availability of information so that people looking for ways to promote growth in their local areas can enjoy one-stop service. The title also provides a mechanism to transfer new and emerging technology from the scientific and university sectors to rural areas for use in promoting economic growth.

Section 401 requires the Secretary to center rural development information gathering and dissemination in the National Agricultural Library. Current law requires the gathering of the information, but it does not provide a one-stop dissemination system. A General Accounting Office report showed that there are numerous program spread throughout the Federal government dealing with rural development, but information detailing these programs in not readily obtainable to even the most knowledgeable persons. The information available in the Library should also include examples of successful and unsuccessful efforts to further growth in rural areas. The information shall be made available through all possible means in addition to normal library exchange programs. It should be a policy of the National Agricultural Library to bring this information together in an easily accessible source so that policy makers also may use this information as a management tool in rural development. It is expected that the Secretary will augment the one-person staff at the Library now assigned to this function. It is also expected that the Secretary will provide the funds needed to enhance the ability of the Video and Teleconference Division and Teleconference Center of USDA to provide simultaneous two-way audio-visual teleconferencing capability to multiple sites with the advent of FTS 2000.

Section 402 establishes a competitive grant program to set up centers at non profit institutions to develop technologies that are suitable for rural areas and may be applied readily by rural entrepreneurs. The Subcommittee finds that informational, manufacturing, processing and marketing technologies are evolving rapidly, but the private sector, especially large corporations, may one again bypass rural America. Small business in rural areas must be prepared to offer equal service that may not need the capital support of a national firm. This grant program is designed to meet this need.

Section 403 consists of conforming amendments.

Title V--Rural Business and Leadership Training

This title establishes a national program to insure that rural citizens have access to technical and management assistance, business development, and planning.

Section 501 requires the Secretary to establish a national program in the Federal Extension Service to provide rural citizens with training, technical and management assistance regarding entrepreneurship, procedures for starting new businesses, self-employment opportunities, modern telecommunications and computer technology, and business and financial planning. The program must provide training in community planning, how to find and apply for grants and loans, and an updated listing of economic development programs. State extension services will be expected to compile and make available a catalog of available State, Federal and private programs that provide leadership training. It is intended that the extension service must be in position to provide the necessary training for rural citizens in the event no other source is available. The Secretary is also expected to review the existing memorandum of understanding between the Extension Service and the Small Business Administration and to make necessary changes so that the two agencies can provide the maximum service to rural areas.

Title VI--Rural Economic Development Research

This title authorizes three competitive research grants.

Section 601 establishes research on nonfood-nonfeed uses of agricultural commodities with emphasis on new products or processes that can be commercially implemented by small business.

Section 602 establishes research on social, economic, and other factors influencing the economic vitality of rural areas.

Section 603 authorizes demonstration areas showing how employment can be increased in rural areas.

Title VII--Rural Electrification Provisions

This title makes various amendments to the Rural Electrification Act to make REA and the Rural Telephone Bank more responsive to the needs of rural telephone systems and to accelerate the provision of modern telecommunications technology to rural areas.

Section 701 names the amendments as "Rural Telecommunications Improvements Act of 1989."

Section 702 recognizes in findings that 1) making modern telecommunications available in rural areas promotes economic development and improves the quality of rural life and 2) the efficient operations of the REA/RTB telephone programs are essential to the continued development of rural telecommunications infrastructure. It reaffirms the Congressional Statement of Policy that REA/RTB telephone loans develop and enhance modern rural telecommunications to the greatest practicable number of rural people at reasonable rates.

Section 711 includes the balance of rescinded loans in the unobligated amounts for the REA and RTB loan programs which carry over from year to year.

Section 712 codifies language from appropriations legislation that prevents the REA administrator from denying loans or advances based on the level of an electric or telephone borrower's general funds. It prevents REA from making a loan or grant to a telephone borrower for electric service or to an electric borrower for telephone service unless the borrower has obtained all required state regulatory approvals and the Administrator/RTB Governor has determined that such loan or grant will not duplicate existing facilities.

Section 721 confirms that duplicative telephone facilities cannot be funded under the RE Act.

Section 722 brings rural telephone systems into the modern world. It adds the word "data" after "voice" and replaces words requiring the use of electricity between transmitting and receiving devices with the words "wire, fiber, radio, light, or other visual or electromagnetic means."

Section 723 preserves state regulatory ratemaking authority by prohibiting the administrator from requiring an applicant to increase subscriber rates as a condition for receiving a loan.

Section 724 encourages rural telephone systems to invest their own capital in rural development.

Section 725 codifies language in recent appropriations acts which allow borrowers with a combination of loans involving different rates to draw down the loans in any order, protects borrowers against unilateral recisions of loans by REA/RTB, requires lending for all authorized telephone purposes, prohibits enforcement of "hip-pocket" rules, and requires REA to use state approved depreciation rates in its feasibility studies for telephone loans.

Section 726 requires REA to report quarterly to the House and Senate agriculture and appropriations committees on all

completed telephone loan applications which are unapproved after 60 days.

Section 731 separates electric and telephone assets, liabilities, income and expenses in the Rural Electric and Telephone Revolving Fund into respective sub-accounts, making each program segment accountable for its own performance.

Sections 732 and 746 assures that REA/RTB borrowers get the full amortization period provided in the act for REA loans unless the borrower elects a shorter period.

Section 733 clarifies long-standing REA policy that a "times interest earned ratio" (TIER) or more than 100 per cent is not necessary for approval of an insured telephone loan, requires that insured telephone loans be made at the highest rate at which a borrower is capable of meeting a TIER of 100 per cent within the range of interest rates contained in the act.

Sections 734 and 747 requires that REA and RTB use Congressionally authorized ceilings (rather than floors) as annual loan limits in both electric and telephone programs; requires that, to the extent of qualifying applications, REA/RTB obligate all previously unobligated loan amounts in both electric and telephone programs carried over from fiscal years prior to 1990; and eliminates OMB-imposed restrictions on agency lending.

Section 735 clearly establishes that an applicant must request a telephone loan guarantee.

Section 741 makes a number of improvements in the makeup and operations of the Rural Telephone Bank. These improvements include increasing the number of board members named by the President by and with the consent of the Senate from five to seven and eliminating the Governor of the Farm Credit Syster (a non-existent position) and the REA Administrator as members, eliminates conflict between policy-making and policy-implementing by prohibiting membership on the board of REA employees including the Administrator, requires the election of a chairman by the members of the board, and clarifies election procedures by requiring mail voting, election by plurality, and voting by 51 per cent of eligible voters.

Section 742 eliminates the FY 1991 deadline for RTB capitalization so that the full statutory authorization for the purchase of Class A stock can be achieved. Infusion of the additional $7.8 million in low interest rate capital will assure that the bank's lending rate remains reasonable and will provide a larger capital base to support increased lending capacity after privatization.

Section 743 clarifies that the required purchase of Class B stock of the bank by RTB borrowers should be proportional with each advance; i.e., five per cent of each draw down,

Section 745 corrects overcharging of RTB borrowers from the date of enactment on loans approved prior to October 1, 1987.

Title VIII--Miscellaneous

Section 801 requires the Secretary to issue implementing regulations within 180 days after enactment.

Section 802 consists of conforming amendments.

Section 803 requires the Secretary to establish loan rates for health care and related facilities based solely on the income of the area to be served.

Section 804 provides additional funds for the Reforestation Trust fund by increasing the amount of assistance available to communities dependent on Forest Service resource management decisions for their local economic activity.

Section 805 requires use of debt restructuring and loan servicing procedures for delinquent community facility program loans made to hospitals and health care facilities.

Section 806 adds rural businesses to the list of entities for which water and waste facility loans and grants may be made.

Section 807 establishes a special water and waste program for areas where a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable water and waste systems. The program is limited to those areas where the per capita income is no more than 70 per cent of the national average and the unemployment rate is greater than 125 percent of the national average. The program gives preference to the residents of those rural subdivisions commonly referred to as colonias, which are characterized by substandard housing and inadequate roads and drainage as well as by lack of water and waste facilities; however, the program is available for any other area of the nation which fits the requirements. This program is not subject to the rank ordering requirements of Section 201.

SECTION-BY-SECTION ANALYSIS OF H.R. 3581,
THE RURAL ECONOMIC DEVELOPMENT ACT OF 1989

Section 1--Short title

Section 1 provides that the bill may be cited as the "Rural Economic Development Act of 1989".

TITLE I--REORGANIZATION OF THE DEPARTMENT OF AGRICULTURE

Section 101--Under secretary of agriculture for international affairs and commodity programs

Section 101 will amend section 501(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 2211a) by adding to the responsibilities of the under secretary of agriculture for international affairs and commodity programs responsibility for agricultural credit and crop insurance. As amended, the under secretary would be responsible for foreign agriculture, agricultural stabilization and conservation, agricultural credit, and crop insurance.

Section 102--Rural Development Administration

Section 102(1) will amend the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) by adding a new section 359, which will establish and provide administrative provisions for a Rural Development Administration within the Department of Agriculture.

Subsection (a) of the new section 359 will establish in the Department of Agriculture the Rural Development Administration, and provide that the Administration will be headed by an

Administrator appointed by the Secretary.

Subsection (b) of the new section 359 will provide that, notwithstanding the provisions of section 331 of the Consolidated Farm and Rural Development Act, the Secretary must, as soon as practicable, but in no case later than 180 days after the date of enactment, transfer to the Rural Development Administration the powers, duties, and assets of the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, related to the performance of rural development functions, including, but not limited to, the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, that administer programs under the following provisions of law:

(1) sections 303(a)(2) and 303(a)(3) of the Consolidated Farm and Rural Development Act, which provide that loans may be made or insured for recreational uses and facilities or enterprises needed to supplement farm income;

(2) section 304(b) of the Consolidated Farm and Rural Development Act, which provides that loans may be made or insured to rural residents to acquire or establish in small business enterprises to provide such residents with essential income;

(3) section 306(a) of the Consolidated Farm and Rural Development Act, which authorizes the current Farmers Home Administration water and waste facility loan and grant program;

(4) section 306A of the Consolidated Farm and Rural Development Act, as added by the section 807 of the bill, which

would authorize water and waste facility loans and grants to alleviate certain health risks;

(5) section 310A of the Consolidated Farm and Rural Development Act, which provides that loans meeting the requirements of Watershed Protection and Flood Prevention Act of title III of the Bankhead-Jones Farm Tenant Act may be insured, or made to be sold and insured, in accordance with certain conditions;

(5) section 310B of the Consolidated Farm and Rural Development Act, which authorizes the current Farmers Home Administration business and industry loan and grant program;

(6) sections 312(a)(5) and (6) of the Consolidated Farm and Rural Development Act, which authorize--

(A) in paragraph (5), that, without regard to the requirements of sections 311(2) and (3), loans may be made to farmers or ranchers to finance outdoor recreational enterprises or to convert to recreational uses their farming or ranching operations, including those previously financed under the Consolidated Farm and Rural Development Act; and

(B) in paragraph (6), that loans may be made for enterprises needed to supplement farm income;

(7) section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), which provides that, prior to September 30, 1988, the Secretary shall guarantee loans made by public agencies or private organizations to nonprofit national rural development and

finance corporations; and

(8) titles V and VI of the Rural Development Act of 1972, which--

(A) in title V, directs the Secretary to conduct certain rural development extension, research, and development programs in cooperation with colleges and universities; and

(B) in title VI, contains programs to--(i) encourage the location of Federal offices in rural areas, (ii) coordinate rural development activities, provide cost-sharing for agriculture-related pollution prevention and abatement measures, and for other purposes.

Subsection (c) of the new section 359 will provide that the Secretary must make such determinations, and shall transfer such personnel from the Farmers Home Administration, as may be necessary or appropriate with regard to the functions transferred under section 359, to the Rural Development Administration. The Secretary must also make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available, or to be made available in connection with the functions transferred by this section, as the Secretary may deem necessary to accomplish the purposes of this section.

Subsection (d) of the new section 359 will provide that the

Administrator of the Farmers Home Administration and the Secretary must take whatever steps are necessary to assure the effective and efficient transfer of authority as provided for in this section.

Subsection (e) of the new section 359 will provide that, except as provided in subsection (f), or as otherwise provided in this section, the Secretary must carry out the provisions of the Consolidated Farm and Rural Development Act through the Farmers Home Administration.

Subsection (f) of the new section 359 will provide that the Secretary must carry out--

(1) section 303 (in the case of loans made for purposes specified in paragraphs (2) and (3) of section 303(a)), section 304(b), section 306(a), section 310A, section 310B, and section 312(a) (in the case of loans made for the purposes specified in paragraphs (5) and (6)) of the Consolidated Farm and Rural Development Act;

(2) section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note);

(3) titles V and VI of the Rural Development Act of 1972; and

(4) such other rural development programs as the Secretary determines appropriate

through the Rural Development Administration.

Subsection (g) of the new section 359 will provide that any

reference in any law, regulation, or order in effect immediately before the date of the enactment of the Rural Economic Development Act of 1989 to the Farmers Home Administration or to the Administrator of the Farmers Home Administration relating to any function, power, or duty which is, on or after such date, a function, power, or duty of the Rural Development Administration or the Administrator of the Rural Development Administration, shall be deemed to be a reference to the Rural Development Administration or to the Administrator of the Rural Development Administration, as the case may be.

Subsection (h)(1) of the new section 359 will provide that this Act does not abate any proceeding commenced--

(A) by or against any entity any function of which is transferred by this Act; or

(B) by or against any officer thereof in the official capacity of such individual as such an officer.

Subsection (h)(2) of the new section 359 will provide that if an officer of the Farmers Home Administration, in the official capacity of such officer, is a party to a proceeding pending on the date of the enactment of this Act, and under this Act the officer or any function of the officer is transferred to the Rural Development Administration, then such action shall be continued with the Secretary or the Administrator of the Rural Development Administration, or other appropriate officer of the Department substituted or added as a party.

Subsection (h)(3) of the new section 359 will provide that the rights, interests, obligations, and duties of the Farmers Home Administration arising before the date of the enactment of the Rural Economic Development Act of 1989 Act out of any loan made, insured, or guaranteed, or any grant or contract made, by the Farmers Home Administration in the exercise of its functions will continue to be vested in the Farmers Home Administration (except with respect to any function to be exercised on or after such date by the Rural Development Administration), or in the Rural Development Administration (with respect to any function to be exercised on or after such date by the Rural Development Administration).

Subsection (i) of the new section 359 will provide that the Administrator of the Rural Development Administration shall be compensated in accordance with the Senior Executive Service, as provided for in subchapter VIII of chapter 53 of title 5, United States Code.

Section 102(2) will amend section 309(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(e)) by inserting "and the Rural Development Administration" after "Farmers Home Administration".[1]

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[1] Section 309(e) currently provides that: "The Secretary shall deposit in the [Agricultural Credit Insurance Fund] all or a portion, not to exceed one-half of one per centum of the unpaid principal balance of the loan, of any charge collected in connection with the insurance of loans; and any remainder of any such charge shall be available for administrative expenses of the Farmers Home Administration, to be transferred annually and become merged with any appropriation for administrative

TITLE II--LOCAL PRIORITIZATION OF PROJECT FUNDING

Section 201--Delivery of certain rural development programs

Subsection (a) of section 201 will amend the Consolidated Farm and Rural Development Act by adding at the end the new sections 360 and 361, as described below.

Subsection (a) of the new section 360 will provide that--

(1) notwithstanding section 310B(d)(4),[2] assistance under each designated rural development program shall be provided in eligible States to qualified projects in accordance with this section; and

(2) the Secretary shall not provide assistance under any designated rural development program in any State which is not an eligible State.

Subsection (b) of the new section 360 will define a number of terms for the purposes of sections 360 and 361 of the Consolidated Farm and Rural Development Act, as added by this Act, including--

(1) Area plan.--The term 'area plan' means, with respect to a local area in a State, the long range rural development plan developed for the area. Each area plan shall identify the geographical boundaries of the area and

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expenses.".

[2]Section 310B(d)(4) provides that: "No grant or loan authorized under this Act shall require or be subject to the prior approval of any officer, employee, or agency of any State.".

include--

(A) an overall economic plan for the area with goals, including economic development and quality of life goals, and time lines based on a realistic assessment of conditions in the area, including, but not limited to--

(i) the number and types of businesses in the area that are growing or declining, and a list of the types of businesses that the area could potentially support;

(ii) the realistic possibilities for industrial recruitment in the area;

(iii) the potential for the development of tourism in the area;

(iv) the potential for the generation of employment in the area through the creation of small businesses and the expansion of existing businesses; and

(v) the potential for the production of value-added agricultural products in the area;

(B) an inventory and assessment of the human resources of the area, including, but not limited to--

(i) a current list of organizations in the area and their special interests;

(ii) the current level of participation of area residents in rural development activities and the level of participation required for successful implementation

of the plan;

(iii) the availability of general and specialized job training in the area and the extent to which the needs of the area for such training are not being met;

(iv) a list of area residents with special skills which could be useful in developing and implementing the plan; and

(v) an analysis of the human needs of the area, the resources in the area available to meet those needs, and the manner in which the plan, if implemented, would increase the resources available to meet those needs;

(C) the current degree of intergovernmental cooperation in the area and the degree of such cooperation needed for the successful implementation of the plan;

(D) the ability and willingness of governments and citizens in the area to become involved in developing and implementing the plan;

(E) a description of how the governments in the area will apply budget and fiscal control processes to the plan; and

(F) the extent to which public services and facilities need to be improved to achieve the economic development and quality of life goals of the plan, taking into consideration, at a minimum--

(i) law enforcement;

(ii) fire protection;

(iii) water and solid waste management;

(iv) education;

(v) health care;

(vi) transportation;

(vii) housing;

(viii) communications; and

(ix) the availability of, and capability to generate, electric power.

(2) Designated rural development program.--The term 'designated rural development program' means a program carried out under section 304(b), 306(a), or subsection (a) through (f) of section 310B of the Consolidated Farm and Rural Development Act, or under section 1323 of the Food Security Act of 1985.

(3) Eligible state.--The term 'eligible State' means a State with respect to which all of the following apply not later than October 1, 1990:

(A) The State has established a rural economic development review panel meeting the requirements of section 361, as added by the bill.

(B) The Governor of the State has appointed an officer or employee of the State government to--

(i) manage, operate, and carry out the

instructions of, the panel described in subparagraph (A); and

(ii) serve as a liaison between the panel and the Federal and State agencies involved in rural development, including transmitting to the Secretary any list transmitted to the State coordinator pursuant to section 361(b)(5).

(C) The State has designated an agency to provide the panel and the State coordinator with support for the daily operation of the panel described in subparagraph (A).

(4) Qualified project.--The term 'qualified project' means any project--

(A) for which the agency described in paragraph (2)(C) of the State has identified--

(i) the alternative Federal, State, local, or private sources of assistance; and

(ii) the related activities in the State; and

(B) to which the Secretary is required by subsection (c)(4) to provide assistance.

(5) State.--The term 'State' means each of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Micronesia, the Marshall Islands, and Palau.

(6) State coordinator.--The term 'State coordinator'

means the individual appointed by the Governor of the State to carry out the activities described in paragraph (2)(B).

(7) State rural economic development review panel.--The term 'State rural economic development review panel' means a panel specified in section 361.

Subsection (c) of the new section 360 will require the Secretary, with respect to each eligible State, to--

(1) review the list, if any, transmitted pursuant to section 360(b)(5) by any State coordinator;

(2) determine whether each project described in an application in the list meets the requirements of the rural development program under which the application seeks assistance;

(3) remove from the list any application for a project that does not meet the requirements;

(4) provide assistance, subject to available funds, to the projects in the applications remaining in the list after the list has (if necessary) been modified pursuant to paragraph (3), in the order in which ranked;

(5) within 30 days after the date of the enactment of any Act providing appropriations for any designated rural development program for any fiscal year, notify each State of the amounts to be made available to such State under such program for such fiscal year, and the aggregate for such fiscal year of such amounts under all the designated rural

development programs;

(6) pay per diem or otherwise reimburse each full-time officer or employee of the United States who is a member of a State rural economic development review panel for expenses incurred each day (including travel time) during which the officer or employee is engaged in the actual performance of a duty of the panel; and

(7) from amounts appropriated for grants under any provision of section 306(a), make grants not to exceed $100,000 annually to each eligible State for the administrative costs associated with the State rural economic development review panel meeting the requirements of section 361.

Subsection (d) of the new section 360 will authorize the Secretary to appoint as nonvoting members, temporarily and for specific purposes, personnel from any department or agency of the United States, with the consent of the head of such department or agency, with expertise not available among the members of any State rural economic development review panel as may be necessary to enable the panel to perform a duty described in the new section 361(b).

Subsection (e) of the new section 360 will require the Secretary to allocate the sums appropriated for direct loans, loan guarantees, or grants for any designated rural development program made available to a State under such program for any

fiscal year to the projects specified in section 360(c)(4) in the order in which the applications for such projects are ranked on the list specified in subsection 360(c)(1). If the sums appropriated for direct loans, loan guarantees, or grants for any designated rural development program made available to the State under such program for any fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in subsection (c)(4), the Secretary may, notwithstanding any provision of law relating to appropriations for any such program for the fiscal year, transfer to the program from other such programs part or all of the sums appropriated for loans, loan guarantees, or grants, as the case may be, made available to the State for such other programs for such fiscal year. The amount transferred from a program under this subsection shall not exceed the amount for such program left unallocated after allocating to each project in an application ranked higher in priority on such list the full amount of assistance requested for each such project.

Subsection (f) of the new section 360 will provide that the Federal Advisory Committee Act shall not apply to any State rural economic development review panel.

Subsection (g) of the new section 360 will provide that the members of a State rural economic development review panel shall not be liable to any person with respect to any determination made by the panel.

Subsection (a) of the new section 361 will provide that each State rural economic development review panel specified in section 360(b)(3)(A) shall meet all of the requirements of this section.

Subsection (b) of the new section 361 will provide that the rural economic development review panel shall have the duty to:

(1) review each area plan submitted by a local area.

(2) evaluate, pursuant to a written policy and criteria, each area plan submitted by a local area and either--

(A) accept any area plan that is technically and economically adequate, feasible, and likely to succeed in meeting the stated goals of the plan, unless the plan is incompatible with any other area plan for that area that has been accepted by the panel; or

(B) return any plan that is technically or economically inadequate, infeasible, unlikely to be successful, or incompatible with any other area plan for that area that has been accepted by the panel, with an explanation of the reasons for the return with suggested alternative proposals.

(3) review applications for assistance for projects to be carried out in any area the area plan for which has been accepted pursuant to paragraph (2)(A), taking into account the sources of assistance and related activities identified

pursuant to section 360(b)(4)(A), and to rank, pursuant to a written policy and criteria, such applications in an order that takes into account--

(A) in the case of business projects described in the application--

(i) the extent to which a project would--

(I) stimulate rural development by creating new jobs of a permanent nature or retaining existing jobs, by enabling new small businesses to be started, or existing businesses to be expanded by local area residents who own and operate the businesses;

(II) contribute to the enhancement and the diversification of the local area economy;

(III) generate or retain jobs for local area residents;

(IV) be carried out by persons with sufficient managerial capability; and

(V) be likely to become financially viable;

(ii) the distribution of assistance to projects in as many areas as possible in the State, with sensitivity to geographical distribution;

(iii) the technical aspects of the projects;

(iv) the market potential and marketing

arrangements for the projects; and

(B) in the case of infrastructure and community facility projects described in the applications--

(i) the extent to which a project would--

(I) affect the quality of life for local area residents;

(II) affect the health and safety of local area residents;

(III) affect business productivity and efficiency; and

(IV) enhance commercial business activity.

Paragraph (3) of subsection (b) of the new section 361 will also provide that, beginning October 1, 1991, a business project which, if implemented, would create or retain jobs must be ranked ahead of all infrastructure projects, except that an infrastructure project is to be given the same ranking as such a business project if it is necessary for the infrastructure project to be carried out in order for the business project to create or retain jobs.

(4) to give priority in reviewing and ranking, notwithstanding the criteria established in paragraph (3), applications for projects designed to address a health emergency declared to be such by the appropriate Federal or State government agency.

(5) transmit to the State coordinator each list of

applications ranked pursuant to paragraphs (3) and (4), and instruct the State coordinator to transmit the list to the Secretary.

(6) establish and annually review the written policy and criteria used by the panel in evaluating and ranking applications in accordance with subsection (b) to ensure that the policy and criteria are consistent with current rural development needs, and to provide for public input during the development of the initial policy and criteria.

Subsection (c) of the new section 361 will, in paragraph (1), provide that the rural economic development review panel shall be composed of not more than 20 members--

(A) 1 of whom is the Governor of the State or the designee of the Governor;

(B) 1 of whom is the director of the State agency responsible for economic and community development or the designee of the director;

(C) 1 of whom is appointed by a statewide association of banking organizations;

(D) 1 of whom is appointed by a statewide association of investor-owned utilities;

(E) 1 of whom is appointed by a statewide association of rural telephone cooperatives;

(F) 1 of whom is appointed by a statewide association of non-cooperative telephone companies;

(G) 1 of whom is appointed by a statewide association of rural electric cooperatives;

(H) 1 of whom is appointed by a statewide association of health care organizations;

(I) 1 of whom is appointed by a statewide association of existing local government-based planning and development organizations;

(J) 2 of whom are appointed by the Governor of the State from 2 different statewide rural development organizations neither of which is described in any of subparagraphs (C) through (I);

(K) 1 of whom is appointed by the dean, or the equivalent official, of the school or college of business of a college or university in the State, as such college or university is selected by the Governor;

(L) 1 of whom is appointed by the dean, or the equivalent official, of the school or college of engineering of a college or university in the State, as such college or university is selected by the Governor;

(M) 1 of whom is appointed by the dean, or the equivalent official, of the school or college of agriculture of a college or university in the State, as such college or university is selected by the Governor;

(N) 1 of whom is appointed by a statewide association of counties;

(O) 1 of whom is appointed by a statewide association of towns and townships, or by a statewide association of municipal leagues, as determined by the Governor;

(P) 1 of whom is appointed by a statewide association of rural water districts;

(Q) the State director of the Federal small business development center (or, if there is no small business development center in place with respect to the State, the director of the State office of the Small Business Administration);

(R) the director of the State office of the Economic Development Administration; and

(S) 1 of whom is appointed by the Secretary from among the officers and employees of the Federal government.

Paragraph (2) of subsection (c) the new section 361 will prohibit the appointment of elected public officials to the rural economic development review panel under subparagraphs (J), (N), and (O) of paragraph (1).

Paragraph (3) of subsection (c) the new section 361 will provide that, if there is no statewide association described in subparagraph (C), (D), (E), (F), (G), (H), or (I) of paragraph (1) of the entities described in such subparagraph or if there are fewer than 2 organizations described in subparagraph (J) of

paragraph (1) of the entities described in such subparagraph, the Governor of the State shall appoint an individual to fill the position or positions, as the case may be, described in the applicable subparagraph from among nominations submitted by local groups of such entities.

Subsection (d) of the new section 361 will provide that each statewide organization that selects an individual to represent the organization on the panel must notify the Governor of the State of the selection.

Subsection (e) of the new section 361 will provide that each individual appointed to the panel by the Governor of the State must be specially qualified to serve on the panel by virtue of the individual's technical expertise in business and community development.

Subsection (f) of the new section 361 will provide that a vacancy in the panel must be filled in the manner in which the original appointment was made.

Subsection (g) of the new section 361 will provide that the panel must elect 2 members of the panel who are not officers or employees of the United States to serve as the chairperson and vice chairperson of the panel for a term of 1 year.

Subsection (h) of the new section 361 will provide that, except as provided in section 360(c)(6), each member of the panel who is an officer or employee of the Federal Government may not receive any compensation or benefits, in addition to that which

such officer or employee receives for performance of such officer or employee's regular employment, by reason of service on the panel.

Subsection (i) of the new section 361 will provide the rules governing panel meetings, including--

(1) A majority of the members of the panel will constitute a quorum for the purpose of conducting business of the panel.

(2) The panel must meet not less frequently than quarterly.

(3) The State coordinator must schedule the first panel meeting.

(4) The panel must keep records of the minutes of the meetings, deliberations, and evaluations of the panel, in sufficient detail to enable the panel to provide to interested persons the reasons for its actions.

Subsection (b) of section 201 of the bill will make a conforming change in section 306(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(3)), by striking, among other requirements, the requirement that all water and waste projects authorized under section 306 be found by the Secretary to be "not inconsistent" with any planned development provided in any State, multijurisdictional, county, or municipal plan approved by competent authority for the area in which the rural community is located.

Section 202--Grants to state revolving funds for loans to very small business ventures

Subsection (a) of section 202 of the bill will authorize the Secretary, on the request of a State rural economic development review panel, to make a one-time grant to a State agency designated by the Governor of the State for the capitalization of a revolving fund to finance and facilitate startup or expansion of very small private businesses in the State, which must be used in accordance with this section.

Paragraph (1) of section 202(b) bill provides that the amount of the grant which may be made under subsection (a) to the revolving fund of a State in a fiscal year will be an amount equal to--

(A) the aggregate amount available to the State in the fiscal year for designated rural development programs; multiplied by

(B) a number determined in accordance with paragraph (2).

Paragraph (2) of section 202(b) bill provides that--

(A) subject to subparagraph (B), the State rural economic development review panel referred to in subsection (a) shall determine the number described in paragraph (1)(B); and

(B) the number determined under subparagraph (A) shall not exceed 0.25.

Subsection (c) of section 202 will provide that the State agency designated by the Governor of the State pursuant to subsection (a) will manage, operate, and provide for the fiscal integrity of the revolving fund described in subsection (a).

Paragraph (1) of section 202(d) will provide that the State agency designated by the Governor of the State pursuant to subsection (a) must--

(A) determine whether each applicant for a loan from the revolving fund described in subsection (a) is eligible for such a loan;

(B) transmit to the State rural economic development review panel any recommended application for a loan from the fund which has been submitted by an applicant who is eligible for such a loan; and

(C) make a loan from the fund to an applicant whose application is approved by the panel.

Paragraph (2) of section 202(d) will provide that the State economic development review panel referred to in subsection (a) must--

(A) review each application for a loan from the revolving fund described in subsection (a) which is transmitted to the panel pursuant to subsection (d); and

(B) determine whether or not to approve the application, taking into account relevant factors, including--

(i) the extent to which the application is consistent with any area plan, as defined in section 360(b)(1) of the Consolidated Farm and Rural Development Act, approved by such panel pursuant to section 361(b)(2) of such Act, for the area in which the project proposed by the application is to be implemented; and

(ii) the criteria set forth in section 361(b)(3) and (4) of the Consolidated Farm and Rural Development Act.

Subsection (e) of section 202 will provide that a State that receives a grant under section 202(a) must use the grant to make loans at prevailing interest rates--

(1) to enterprises described in subsection (a), directly or through intermediaries which have established programs for providing financial and technical assistance to local businesses; and

(2) for the capitalization of intrastate revolving loan funds.

Subsection (f) of section 202 will provide that section 202 not be construed to prevent a State which receives a grant made under this section from commingling in the revolving fund described in subsection (a) amounts from other sources.

Subsection (g) of section 202 will provide that for the purposes of section 202 the term "very small business" means any

business having fewer than 30 employees.

TITLE III--ENHANCEMENT OF EXISTING RURAL DEVELOPMENT PROGRAMS

Section 301--REA technical assistance unit

Section 301 will amend title I of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) by adding at the end a new section 17 to establish a technical assistance unit within the Rural Electrification Administration (REA).

Subsection (a) of the new section 17 will require the Administrator of the REA to establish a technical assistance unit to perform the duties described in subsection (b).

Subsection (b) of the new section 17 will require the technical assistance unit established under subsection (a) to--

(1) provide advice and guidance to electric and telephone borrowers concerning the effective and prudent use by such borrowers of the investment authority under section 312[3] to promote rural development;

(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under the Rural Electrification Act;

(3) establish and administer various pilot projects through electric and telephone borrowers that the

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[3] Section 312 of the Rural Electrification Act of 1936 (7 U.S.C. 940b) provides that: "A borrower of an insured or guaranteed electric loan under this Act may, without restriction or prior approval of the Administrator, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.".

Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;

(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

(5) provide information to electric and telephone borrowers concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts; and

(6) promote local partnerships and other coordination between borrowers and community organizations, States, counties, or other entities, to improve rural development.

Subsection (c) of the new section will require that not less than 3 percent of the salaries and expenses of the Rural Electrification Administration be made available during each fiscal year to the technical assistance unit.

Section 302--Deferment of payment on economic development loans

Section 302 of the bill will amend section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) by redesignating the current section 12 as section 12(a) and by adding a new

subsection (b).[4]

Paragraph (1) of the new subsection (b) will require the Administrator to permit any borrower to defer the payment of principal and interest on any insured or direct loan made under the Act as provided in this subsection, notwithstanding any limitation in section 12(a), except that such deferment may not be permitted based on the determination of the Administrator of the financial hardship of the borrower.

Subparagraph (2)(A) of the new subsection (b) will require that, in the case of deferments made to enable the borrower to provide financing to local businesses, the deferment must be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred. and

Subparagraph (2)(B) of the new subsection (b) will require that, in the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, or similar community, business, or economic development assistance, the deferment must be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total

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[4] Section 12 of the Rural Electrification Act authorizes the Administrator of the REA to extend the time of repayment of interest or principal of any loans made by the Administrator under the Act, with some limitations.

amount of such payments shall be equal to the amount of the payment deferred.

Subparagraph (3)(A) of the new subsection (b) will provide that a borrower may defer its debt service payments only in an amount equal to an investment made by such borrower in community or economic development projects.

Subparagraph (3)(B) of the new subsection (b) will provide that the amount of the deferment may not exceed 50 percent of the cost of a community or economic development project financed under paragraph (2).

Subparagraph (3)(C) of the new subsection (b) will provide that the total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 may not exceed 3 percent of the total payments received during such fiscal year from all borrowers on direct and insured loans made under the Act, and may not exceed 5 percent of such total payments in each subsequent fiscal year.

Subparagraph (3)(D) of the new subsection (b) will require the borrower, at the time of a deferment, to make a cushion of credit payment in an amount equal to the amount of the payment deferred. Such payment may not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the

interest differential calculation under section 313.

Paragraph (4) of the new subsection (b) will require the Administrator to undertake all reasonable efforts to permit the full amount of deferments authorized by subsection (b) during each fiscal year.

Section 303--Rural housing financing by the farm credit banks

Section 303 of the bill will amend section 1.11(b)(3) of the Farm Credit Act of 1971 (12 U.S.C. 2019(b)(3)) to provide that rural areas in which the Farm Credit Banks may make rural housing loans must not be defined to include any city or village having a population in excess of 20,000 inhabitants. Current law provides for an upper limit of 2,500 inhabitants.

Section 304--Securitization of housing loans

Subsection (a) of section 304 will amend section 8.0(1)(B)(i) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(1)(B)(i)) to include in the term "agricultural real estate" for purposes of title VIII a residential dwelling located in a rural area, excluding any community having a population in excess of 20,000 inhabitants. Current law provides for an upper limit of 2,500 inhabitants.

Subsection (b) of section 304 will amend section 8.8(b)(5) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa) to clarify that rural housing borrowers need not demonstrate that they are actively engaged in agricultural production in order for their loan to be eligible to be guaranteed through the federal

Agricultural Mortgage Corporation (Farmer Mac).

Section 305--Water and waste lending by banks for cooperatives

Subsection (a) of section 305 will amend section 3.7 of the Farm Credit Act of 1971 (12 U.S.C. 2128) to authorize the banks for cooperatives to make and participate in loans and commitments, and to extend other technical and financial assistance for the purpose of the installation, expansion, or improvement of water facilities or systems or waste disposal facilities, to--

(1) cooperatives formed specifically for the purpose of establishing or operating such systems; and

(2) rural municipalities having populations not in excess of 20,000 inhabitants, if the proceeds from such loans are used to expand existing water or waste facilities in such municipalities, to enhance the economic development of such municipalities, or to address health-related problems of the inhabitants of such municipalities.

Subsection (a) of section 305 will amend section 3.8(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1) to clarify that any cooperative or municipality described in subsection (a) is eligible to borrow from a bank for cooperatives.

Section 306--Amendments to the business and industry loan program

Section 306 of the bill will amend section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a) to--

(1) authorize the Secretary to make and insure loans to small and very small rural businesses to assist in the startup and expansion of such businesses that have presented an application for a business project meeting the criteria established under section 361(b)(3)(A) to the state rural economic development review panel;

(2) reduce the limit on a loan under the business and industry loan program from $25,000,000 to $1,000,000; and

(3) to establish as the primary purpose of the business and industry loan program the assistance of small and very small rural businesses. For the purposes of section 310B, the term "very small business" means a business having fewer than 30 employees; the term "small business" shall not be defined in such a manner as to be inconsistent with the definition of such term established by the Small Business Administration pursuant to 15 U.S.C. 632.

Section 307--Water or waste disposal loans to benefit rural businesses.

Section 307 of the bill will amend section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) to provide that water and waste disposal loans may be made under section 306 primarily to benefit rural businesses. Currently, such loans may be made if the project will primarily serve farmers, ranchers, farm tenants, farm laborers, and other rural residents.

TITLE IV--RURAL DEVELOPMENT INFORMATION SHARING AND TECHNOLOGY TRANSFERS

Section 401--Rural development information sharing

Section 401 will amend section 306(a)(12)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(12)) to provide that the system for the dissemination of information and technical assistance on federally sponsored or funded programs shall be located in the National Agricultural Library.

Section 402--Rural technology grants

Subsection (a) of section 402 will amend section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) by adding at the end new subsections (g), (h), and (i).

Paragraph (1) of the new subsection 310B(g) will require the Secretary to make grants under this to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural technology development.

Paragraph (2) of the new subsection 310B(g) will require any nonprofit institution seeking a grant under paragraph (1) to submit to the Secretary an application containing a plan for the establishment and operation by such institution of a center for rural technology development. The Secretary may approve such application if such plan contains--

(A) a provision that substantiates that such centers will effectively serve rural areas in the United States.

(B) a provision that the primary objective of such center will be to improve the economic condition of rural areas by promoting the development (through technology innovation) and the adaptation of existing technology and commercialization of--

(i) new services and products that can be produced or provided in rural areas; and

(ii) new processes that can be utilized in the production of products in rural areas.

(C) a description of the activities which such center will carry out to accomplish such objective.

Such activities may include--

(i) Programs for technology research, investigations, and basic feasibility studies in any field and discipline for the purpose of generating principles, facts, technical knowledge, new technology, or other information which may be useful to rural industries, agribusinesses, and other persons in rural areas served by such centers in the development and commercialization of new products in processes.

(ii) Programs for the collection, interpretation, and dissemination of existing principles, facts, technical knowledge, new technology, or other information which may be useful to rural industries, agribusinesses, and other persons in rural areas served by the center in

the development and commercialization of new products and processes.

(iii) Programs providing training and instruction for individuals residing in rural areas served by the center with respect to the development (through technological innovation and adaptation of existing technology) and commercialization of new products and processes.

(iv) Programs providing loans and grants to individuals in rural areas served by the center and to small businesses in rural areas served by the center for purposes of generating, evaluating, developing, and commercializing new products and processes.

(v) Programs providing technical assistance and advisory services to individuals, small businesses, and industries in rural areas served by the center for purposes of developing and commercializing new products and processes.

(D) a description of the contributions which such activities are likely to make to the improvement of the economic conditions of the rural areas for which such center will provide services.

(E) provisions that such center, in carrying out such activities will seek, where appropriate, the advice, participation, expertise, and assistance of representatives

of business, industry, educational institutions, the Federal Government, and State and local governments.

(F) provisions that such center--

(i) will consult with any college or university administering any program under title V of the Rural Development Act of 1972 in the State in which such center is located; and

(ii) will cooperate with such college or university in the coordination of such activities and such program.

(G) provisions that such center will take all practicable steps to develop continuing sources of financial support for such center, particularly from sources in the private sector.

(H) Provisions for--

(i) monitoring and evaluating such activities by the institution operating such center; and

(ii) accounting for money received by such institution under this section.

(I) provisions that such center will provide for the optimum application of such technology in rural areas, especially those areas adversely impacted by adverse agricultural economic conditions, through the establishment of demonstration projects and subcenters for rural technology development where the technology can be

implemented by communities, community colleges, businesses and other institutions to improve local economic conditions.

Paragraph (3) of the new subsection 310B(g) will require that the rural technology grants made under paragraph (1) be made on a competitive basis, and that in making such grants the Secretary must give preference to grant applications providing for the establishment of centers for rural technology development that--

(A) can demonstrate the capability to transfer for practical application in rural areas the technology generated at such centers for rural areas and the ability to commercialize products and processes in such areas;

(B) will effectively serve in rural areas which have--

(i) few rural industries and agribusinesses;

(ii) high levels of unemployment;

(iii) high rates of migration of people, businesses, and industries; and

(iv) low levels of per capita income; and

(C) will contribute the most to the improvement of economic conditions of rural areas.

Paragraph (4) of the new subsection 310B(g) will provide that, as used in this subsection:

(A) The term 'nonprofit institution' means any organization or institution, including an accredited institution of higher education, no part of the net earnings

of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(B) The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, Micronesia, the Marshall Islands, and Palau.

(C) The term 'rural areas' means a county with an urban population of fewer than 20,000 individuals.

The new subsection (h) of section 310B will provide that, in carrying subsection (g), the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment or underemployment of persons residing in economically distressed rural areas which the Secretary determines have a substantial need for such assistance. Such assistance shall include planning and feasibility studies, management and operational assistance, and studies evaluating the needs for and development potential of projects which increase employment and improve economic growth in such areas.

The new subsection (i) of section 310B will authorize the Secretary to make grants to defray not to exceed 75 percent of the administrative costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under subsection (g). For purposes of determining the non-Federal share of such costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including

but not limited to premises, equipment, and services.

Subsection (c) of section 402 of the bill will authorize to be appropriated to the Secretary not to exceed $50,000,000 each year for fiscal years 1990, 1991, and 1992 to carry out the new subsections (g) and (i).

Section 403--Conforming amendments

Section 403 of the bill will make a number of technical and conforming changes in the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) necessitated by titles I and IV of the bill.

TITLE V--RURAL BUSINESS AND LEADERSHIP TRAINING

Section 501--Extension service rural business and leadership training program.

Section 501 of the bill will amend section 1 of chapter 79 of the Act of May 8, 1914 (7 U.S.C. 341; commonly known as the 'Smith-Lever Act') to--

(1) redesignate the existing section 1 as section 1(a); and

(2) to add a new subsection (b) to the existing section 1.

Paragraph (1) of the new subsection (b) of section 1 will require the Secretary to establish a national program, to be administered by the Federal Extension Service, to provide rural citizens with training, technical and management assistance regarding, and educational opportunities to enhance their knowledge of--

(A) the potential for beginning new businesses through

entrepreneurship;

(B) the procedures necessary to establish new businesses in rural areas;

(C) self-employment opportunities in rural areas;

(D) the uses of modern telecommunications and computer technologies;

(E) business and financial planning; and

(F) such other training, assistance, and educational opportunities as the Secretary determines are necessary to carry out the program established under this subsection.

Paragraph (2) of the new subsection 1(b) will require the program established pursuant to subsection (b) to provide assistance designed to increase the leadership abilities of residents in rural areas. Such assistance shall include--

(A) information relative to the development of community goals;

(B) instruction regarding the methods by which state or Federal funding for rural development projects might be obtained;

(C) instruction regarding the successful writing of applications for loan or grant funds, from government and private sources;

(D) an updated listing of state, Federal, and other economic development programs available to rural areas; and

(E) such other training, information, and assistance as

the Secretary determines necessary to increase the leadership abilities of residents in rural areas.

Paragraph (3) of the new subsection 1(b) will require the extension service in each State, in order to facilitate the program established under subsection (b), to provide to each community, and make accessible to any other interested party, a catalog of available state, Federal, or private programs that provide leadership training or other information or services similar or complementary to the training or services required by this subsection. Such catalog must include, at a minimum, the following entities within the State that provide such training or services:

(A) any rural electric cooperative;

(B) any nonprofit community development corporation;

(C) any economic development district that serves a rural community;

(D) any nonprofit subsidiary of any private entity;

(E) any nonprofit organization whose principal purpose is to promote economic development in rural areas.

(F) any investor owned electric utility;

(G) any small business development center or small business investment company;

(H) any regional development organization;

(I) any vocational or technical school;

(J) any Federal, State or local government agency or

department; and

(K) any other entity that the Secretary deems appropriate.

The extension service in each State will be required to include in the catalog information relative to the specific training or services provided by each entity in the catalog.

Paragraph (4) of the new subsection 1(b) will require the Secretary to provide training for extension service employees to ensure that such employees understand the availability of rural development programs in their respective States; and the availability of Federal Extension Service staff qualified to provide to rural citizens and to State extension staff training and materials for technical, management, and educational assistance required by subsection (b).

TITLE VI--RURAL ECONOMIC DEVELOPMENT RESEARCH

Section 601--Research on nontraditional uses of agricultural commodities

Section 601 will require the Secretary to establish a program of competitive grants, to be administered through the Cooperative State Research Service in conjunction with that agency's agricultural productivity research activities required under subtitle C of title XIV of the Food Security Act of 1985 (7 U.S.C. 4701 et seq.), for the purpose of conducting research on non-food, non-feed uses of agricultural commodities. The bill will require the Secretary to give priority in the awarding of

grants under section 601 to research projects that the Secretary determines have the potential for developing new products from or processes for agricultural commodities that may be commercially implemented by small businesses.

Section 602--Authorization of rural development research competitive grants

Section 602 of the bill will require the Secretary to establish a program of competitive grants, to be administered through the Cooperative State Research Service, for the purpose of encouraging research and analysis of the social, economic, and other factors influencing the economic vitality of rural areas. Section 602 will also require that priority in the award of such grants be given to projects designed to research methods by which the social and economic vitality of rural areas can be enhanced.

Section 603--Demonstration projects.

Section 603 of the bill will require the Secretary to establish a program of competitive grants to rural areas to serve as demonstration areas, and to consider in the awarding of such grants--

(1) whether such rural area demonstrates the ability to supplement the grant funds provided under this section with other funds from State, local, or private sources;

(2) whether such rural area demonstrates the ability to use the grant funds to increase employment in the area; and

(3) whether such rural area can successfully serve as a

demonstration area to share the results of the project to the benefit other rural areas in the region.

TITLE VII--RURAL ELECTRIFICATION PROVISIONS

Section 701--Short title; amendment of Rural Electrification Act of 1936

Subsection (a) of section 701 provides that title VII of the bill may be cited as the ''Rural Telecommunications Improvements Act of 1989''.

Subsection (b) of section 701 provides that, except as otherwise expressly provided, whenever in title VII of the bill an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Rural Electrification Act of 1936.

Section 702--Findings; statement of policy

Subsection (a) of section 702 will provide congressional findings that--

(1) making modern telecommunications technology and services available in rural areas in the United States promotes economic development and improves the quality of life in rural areas; and

(2) the efficient operation of the Rural Telephone Bank and the Rural Electrification Administration telephone loan programs is essential to the continued development of the telecommunications infrastructure in rural areas in the

United States.

Subsection (b) of section 702 will provide that it is the policy of the Congress that the Rural Telephone Bank and the Rural Electrification Administration make loans that facilitate the development and enhancement of the rural telecommunications infrastructure in order to make modern telecommunications technology and services available at reasonable rates to the greatest practicable number of people in rural areas in the United States.

Subtitle A--Amendments Relating to Title I of the 1936 Act

Section 711--Carryover of rescinded loans

Section 711 of the bill will amend section 3(e) (7 U.S.C. 903(e)) to include the balance of all rescinded loans and obligations among the unobligated sums that are available for loans in subsequent years.

Section 712--General prohibitions

Section 712 of the bill will amend title I (7 U.S.C. 901 et seq.) by adding a new section 17 prohibiting the Administrator of the REA and the Governor of the telephone bank from--

(1) denying or reducing any loan or loan advance under this Act based on a borrower's level of general funds; or

(2) making any loan or grant, or providing any guarantee, under this Act, for electric service to any borrower of a telephone loan, or for telephone service to any borrower of an electric loan, unless--

(A) the borrower has obtained a certificate of convenience and necessity from, or otherwise obtained the consent of, the State regulatory authority with jurisdiction over the provision of such service; and

(B) the Administrator or the Governor, as the case may be, has determined (and set forth the reasons therefor in writing) that such loan or grant will not be used to duplicate any lines, facilities, or systems.

Subtitle B--Amendments Relating to Title II of the 1936 Act

Section 721--Nonduplication of telephone facilities

Subsection (a) of section 721 will amend section 201 (7 U.S.C. 922) to clarify that--(1) neither the Administrator nor the Governor of the telephone bank may make or guarantee a loan, or make a grant, for telephone purposes under the Act if the loan, guarantee, or grant would result in the duplication of lines, facilities, or systems that provide reasonably adequate service, and (2) for purposes of the Rural Electrification Act, the term 'duplication' does not include upgrading.

Subsection (b) of section 721 will make a conforming amendment to section 408(b)(5) of the Rural Electrification Act (7 U.S.C. 948(b)(5)).

Section 722--Updated definition of telephone service

Section 722 of the bill will amend the definition of telephone service in section 203(a) (7 U.S.C. 924(a)) to include any communication service for the transmission or reception of

voice, data, sounds, signals, pictures, writing, or signs of all kinds by wire, fiber, radio, light, or other visual or electromagnetic means.

Section 723--Noninterference with State regulation of telephone ratemaking.

Section 723 will amend Title II of the Act (7 U.S.C. 922 et seq.) by adding at the end a new section 204 which will prohibit the Administrator and the Governor of the telephone bank from, as a condition of making a telephone loan to an applicant therefor, requiring the applicant to--

(1) increase the rates charged to the applicant's customers or subscribers; or

(2) increase the applicant's ratio of--

(A) net income or margins before interest; to

(B) the interest requirements on all of the applicant's outstanding and proposed loans.

Section 724--Encouragement of investment by telephone borrowers in rural development projects.

Section 724 will amend Title II of the Act (7 U.S.C. 922 et seq.) by adding at the end a new section 205.

Subsection (a) of the new section 205 will prohibit the Administrator from--

(1) treating any amount invested by any qualified telephone borrower for any purpose described in section 607(c)(2) of the Rural Development Act of 1972 (including

any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, which is used by such company for such a purpose) as a dividend or distribution of capital, to the extent that, immediately after such investment, the aggregate of such investments does not exceed 1/3 of the net worth of the borrower; or

(2) requiring a qualified telephone borrower to obtain the approval of the Administrator in order to make an investment described in paragraph (1).

Subsection (b) of the new section 205 will define, for the purposes of subsection (a), the term 'qualified telephone borrower' to mean a person--

(1) to whom a telephone loan has been made or guaranteed under this Act; and

(2) whose net worth is at least 20 percent of the total assets of such person.

Section 725--Improvements in telephone program

Section 725 will amend Title II of the Act (7 U.S.C. 922 et seq.) by adding at the end a new section 206.

Subsection (a) of the new section 206 will require the Administrator and the Governor of the telephone bank to--

(1) notwithstanding section 553(a)(2) of title 5, United States Code, cause to be published in the Federal Register, in accordance with section 553 of such title, all rules,

regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this Act;

(2) in evaluating the feasibility of a telephone loan to be made to a borrower for telephone services in a State, use only the depreciation rates authorized by the State regulatory authority with jurisdiction over the provision of such services; and

(3) make loans for all purposes for which loans are authorized under section 201, to the extent of qualifying applications therefor.

Subsection (b) of the new section 206 will prohibit the Administrator and the Governor of the telephone bank from--

(1) rescinding an insured telephone loan, or a Rural Telephone Bank loan, made under this Act without the consent of the borrower;

(2) regulating the order or sequence of advances of funds under telephone loans made under this Act to any borrower who has received any combination of telephone loans from the Rural Electrification Administration, the Rural Telephone Bank, or the Federal Financing Bank; or

(3) denying a loan or advance to, or taking any other adverse action against, an applicant for, or a borrower of, a telephone loan under this Act for any reason which is not based on a rule, regulation, bulletin, or other written

policy standard which has not been published pursuant to section 553 of title 5, United States Code.

Section 726--Prompt processing of telephone loans

Section 726 of the bill will amend Title II (7 U.S.C. 922 et seq.) by adding at the end a new section 207 to require that the Administrator, within 10 days after the end of each calendar quarter, must submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report--

(1) identifying each completed application for a telephone loan under section 305, a guarantee of a telephone loan under section 306, or a loan under section 408, which has not been finally acted upon within 60 days after the date the completed application is submitted; and

(2) stating the reasons for the failure to finally act upon the completed applications within such 60-day period.

Subtitle C--Amendments Relating to Title III of the 1936 Act

Section 731--Creation of separate electric and telephone accounts within rural electric and telephone revolving fund.

Section 731 of the bill will add a new subsection (c) to section 302 (7 U.S.C. 932)of the Act.

Paragraph (1) of the new subsection 302(c) will require the Administrator to maintain 2 separate accounts within the rural

electrification and telephone revolving fund, to be known as the electric account and the telephone account, respectively.

Paragraph (2) of the new subsection 302(c) will require the Administrator to--

(A) account for the assets, liabilities, income, expenses, and equity of the fund attributable to operations of the electric loan program, in the electric account; and

(B) account for the assets, liabilities, income, expenses, and equity of the fund attributable to operations of the insured telephone loan program, in the telephone account.

Paragraph (3)of the new subsection 302(c) will require that-

(A) the assets accounted for in the electric account be available solely for the operation of the electric loan program; and

(B) the assets accounted for in the telephone account be available solely for the operation of the telephone loan programs under the Act (other than under title IV).

Section 732--Borrowers to determine amortization period for insured telephone loans

Section 732 will amend section 305 (7 U.S.C. 935) by adding at the end a new subsection (d) to require that the term of any telephone loan made under title III of the Rural Electrification Act is to be determined by the borrower at the time the loan is

made.

Section 733--TIER requirement for insured telephone loans

Section 733 will add a new subsection (e) to section 305 (7 U.S.C. 935) to provide that the Administrator shall make a telephone loan under this title to an applicant who is otherwise qualified to receive such a loan, at the highest interest rate (not less than the lowest interest rate specified in subsection (b)) at which the borrower, taking into account all current and outstanding indebtedness, would be capable of producing net income or margins before interest payments of at least 100 percent (but not more than 150 percent) of the interest requirements on all of the applicant's outstanding and proposed loans.

Section 734--Full use of rea insured loan authority

Section 733 will add a new subsection (f) to section 305 (7 U.S.C. 935) to provide--

(1) in subparagraph (1)(A) that if an appropriations Act authorizes the Administrator to make loans under title III in a fiscal year and such Act requires that, within available resources and available authority, gross obligations for the principal amount of such loans be not less than a specified amount and not more than a different specified amount, the Administrator shall obligate for such loans for such fiscal year, to the extent of qualifying applications and without regard to nonstatutory quotas or

other restrictions which may be sought to be imposed by or within the executive branch of the Federal Government, the unobligated funds (including the balance of all rescinded loans) available to the Administrator to the extent such unobligated funds do not exceed the greater of such specified amounts.

(2) in subparagraph (1)(B) that, notwithstanding subparagraph (A), until all unobligated funds (including the balance of all rescinded loans) available to the Administrator for any fiscal year before fiscal year 1990 have been expended, the Administrator shall obligate for loans under title III, to the extent of qualifying applications therefor and without regard to nonstatutory quotas or other restrictions which may be sought to be imposed by or within the executive branch of the Federal Government, all unobligated funds (including the balance of all rescinded loans) available to the Administrator.

Paragraph (2) of the new subsection (f) will provide that any subsequent statute may not be held to supersede or modify the new subsection (f), except to the extent that it does so expressly.

Section 735--Clarification of telephone loan guarantee authority

Section 735 will amend section 306 (7 U.S.C. 936) of the Act to prohibit the Administrator from providing assistance, in the form of a loan guarantee, accommodation, or subordination, to any

borrower of a telephone loan under the Act unless the borrower specifically applies for such assistance.

Subtitle D--Amendments Relating to Title IV of the 1936 Act

Section 741--Modification of rural telephone bank board

Section 741 will amend section 405 (7 U.S.C. 945) by replacing the existing subsections (a) through (f), governing the operation of the telephone bank board, with new material.

The new subsection (a) of section 405 will vest the management of the telephone bank, within the limitations prescribed by law, in a board of directors (referred to as the Telephone Bank Board).

The new subsection (b) of section 405 will require that the Telephone Bank Board consist of 13 individuals, as follows:

(1) The President shall appoint 7 individuals to serve on the Telephone Bank Board, by and with the advice and consent of the Senate, who shall serve at the pleasure of the President--

(A) 5 of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Rural Electrification Administration; and

(B) 2 of whom shall be from the general public and not officers or employees of the Federal Government.

(2) The cooperative-type entities, and organizations controlled by such entities, which hold class B or class C stock in the Rural Telephone Bank stock shall elect 3

individuals to serve on the Telephone Bank Board for a term of 2 years, by a plurality vote of the stockholders voting in the election.

(3) The commercial-type entities, and the organizations controlled by such entities, which hold class B or class C stock shall elect 3 individuals to serve on the Telephone Bank Board for a term of 2 years, by a plurality vote of the stockholders voting in the election.

The new subsection (c) of section 405 will provide that--

(1) An election under paragraph (2) or (3) of subsection (b) shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

(2) Balloting in an election under paragraph (2) or (3) of subsection (b) shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

(3) Cumulative voting is prohibited in any election under paragraph (2) or (3) of subsection (b).

The new subsection (d) of section 405 will provide that--

(1) except as provided in (2), each member of the Telephone Bank Board shall receive $100 per day for each day or part thereof, not to exceed 50 days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may

prescribe.

(2) the 5 members of the Telephone Bank Board who are officers or employees of the Department of Agriculture appointed under subsection (b)(1)(A) shall not receive compensation by reason of their service on the Telephone Bank Board.

The new subsection (e) of section 405 will provide that a member of the Telephone Bank Board may serve after the expiration of the term of office of such member until the successor for such member has taken office.

The new subsection (f) of section 405 will require that the members of the Telephone Bank Board elect 1 of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson will preside at all meetings of the Board and may vote on a matter before the Board only in the event of a tie vote of the other members of the Board on such matter.

Section 742--Rural telephone bank capitalization

Section 742 will amend section 406(a) (7 U.S.C. 946(a)) to strike the fiscal year 1991 expiration on the Federal Government's furnishing of capital for the purchase of class A stock in the telephone bank.

Section 743--Pro rata purchase of RTB stock by RTB borrowers

Section 743 will amend section 406(d) (7 U.S.C. 946(d)) to clarify that the required purchase of Class B stock by Rural

Telephone Bank borrowers should be proportional, in an amount equal to 5 percent of the amount of each loan advance, at the time of such advance.

Section 744--Clarification of authority to set RTB loan levels

Section 744 of the bill will amend section 408(a) (7 U.S.C. 948(a)) to make mandatory, rather than discretionary as in current law, the Governor of the telephone bank's obligation to make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by Congress for loans to be made in any one year.

Section 745--Correction of overcharge made on RTB loans made before October 1, 1987

Subsection (a) of section 745 will amend section 408(b)(3)(B) (7 U.S.C. 948(b)(3)(B)) to require that--

(I) on the request of the borrower, loan advances made in a fiscal year under loan commitments made before October 1, 1987, shall bear interest, on and after the date of the enactment of this clause--

(aa) in the case of advances made before October 1, 1987, at the rate specified in the table set forth in section 408(b)(3)(E) for advances made in such fiscal year; and

(bb) in the case of advances made after September 30, 1987, at the cost of money rate for such fiscal year,

as determined under section 408(b)(3)(D).

(II) subclause (I) shall not apply to any advance made under a loan commitment if, as a result, the weighted average interest rate on all advances made under the loan commitment would exceed the rate of interest specified in the loan commitment.

Subsection (b) of section 745 will require the Governor of the Rural Telephone Bank, before the end of the 60-day period beginning on the date of the enactment of this section, to amend the loan documentation of each borrower who requests an interest rate reduction on an advance to which section 408(b)(3)(B)(ii)(I) of the Rural Electrification Act of 1936 as added by subsection (a) applies, and to notify each such borrower of the reduced interest rate on such advance.

Section 746--Borrowers to determine amortization period for RTB loans

Section 746 will add a new subsection (d) to section 408 (7 U.S.C. 948) to require that the term of any loan made under title IV of the Rural Electrification Act must be determined by the borrower at the time the loan is made, except that the term of any loan made under title IV can not exceed the maximum term provided for under section 4 of the Act.

Section 747--Full use of RTB loan authority

Section 747 will strike the existing section 412 (7 U.S.C. 950b) regarding borrower net worth and replace it with an amended

section 412 regarding the full use of the telephone bank's loan authority.[5]

Subsection (a) of the amended section 412 will provide--

(1) in paragraph (1) that if an appropriations Act authorizes the telephone bank to make loans in a fiscal year and such Act requires that, within available resources and available authority, gross obligations for the principal amount of such loans be not less than a specified amount and not more than a different specified amount, the Governor of the telephone bank must obligate for such loans for such fiscal year, to the extent of qualifying applications therefor and without regard to nonstatutory quotas or other restrictions which may be sought to be imposed by or within the executive branch of the Federal Government, all unobligated funds (including the balance of all rescinded loans) available to the Governor to the extent such unobligated funds do not exceed the greater of such specified amounts.

(2) in paragraph (2) that, notwithstanding paragraph (1), until all unobligated funds (including the balance of

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[5] The current section 412 provides that: "Except as provided in subsection (b)(2) of section 408, notwithstanding any other provision of law, a loan shall not be made under section 201 to any borrower which during the immediately preceding year had a net worth in excess of 20 per centum of its assets unless the Administrator finds that the borrower cannot obtain such a loan from the telephone bank or from other reliable sources at reasonable rates of interest and terms and conditions.

all rescinded loans) available to the Governor of the telephone bank for any fiscal year before fiscal year 1990 have been expended, the Governor must obligate for loans under title IV, to the extent of qualifying applications therefor and without regard to nonstatutory quotas or other restrictions which may be sought to be imposed by or within the executive branch of the Federal Government, all unobligated funds (including the balance of all rescinded loans) available to the Governor.

Subsection (b) of the amended section 412 will provide that no subsequent statute may be held to supersede or modify section 412, except to the extent that such statute does so expressly.

Section 748--Technical amendments relating to the Rural Telephone Bank provisions of the Omnibus Budget Reconciliation Act of 1987

Paragraph (a)(1) of section 748 will amend section 406(h) (7 U.S.C. 946(h)) to prohibit the transfer of amounts, previously transferred from the reserve for contingencies to the reserve for losses due to interest rate fluctuations, directly or indirectly, back to the reserve for contingencies.

Paragraph (a)(2) of section 748 will make a technical amendment to section 748.

Subsection (b) of section 748 will make amendments to section 408(b)(3) (7 U.S.C. 948(b)(3)) regarding the calculation of interest rates on rural telephone bank loans.

SUBTITLE E--EFFECTIVE DATE

Section 751--Effective date

Subsection (a) of section 751 will provide that, except as provided in subsection (b), title VII of the bill and the amendments made by title VII shall take effect on the date of the enactment of title VII.

Subsection (b) of section 751 will provide that the amendments made by section 748 of the bill shall take effect as if such amendments had been included in chapter 2 of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987 on date of enactment of such chapter.

TITLE VIII--MISCELLANEOUS

Section 801--Regulations

Section 801 will require the Secretary, no later than 180 days after the enactment of the bill, to promulgate regulations that are necessary to carry out the bill.

Section 802--Conforming amendments

Section 802, in subsection (a), will make conforming amendments to sections 657, 658, 1006, and 1014 of title 18, United States Code.

Section 802, in subsection (b), will make technical and conforming amendments to sections 623(c)(2) and 628 of the Community Economic Development Act of 1981 (42 U.S.C. 9812(c)(2)

and 9817).

Section 803--Loan rates applicable to certain loans under the Consolidated Farm and Rural Development Act

Section 803 will amend section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) by adding a new subparagraph (C).

New subparagraph 307(a)(3)(C) will require the Secretary, notwithstanding the provisions of section 307(a)(3)(A)[6], to establish loan rates for health care and related facilities based solely on the income of the area to be served. The loan rates

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[6]Section 307(a)(3)(A) provides that:

"(3)(A) Except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans), to public bodies or nonprofit associations (including Indian tribes on Federal and State Reservations and other federally recognized Indian tribal groups) for water and waste disposal facilities and essential community facilities shall be set by the Secretary at rates not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for such loans, and adjust to the nearest one-eighth of 1 per centum; and not in excess of 5 per centum per annum for any such loans which are for the upgrading of existing facilities or construction of new facilities as required to meet applicable health or sanitary standards in areas where the median family income of the persons to be served by such facility is below the poverty line prescribed by the Office of Management and Budget as adjusted under section 624 of the Economic Opportunity Act of 1964 and in other areas as the Secretary may designate where a significant percentage of the persons to be served by such facilities are of low income, as determined by the Secretary; and not in excess of 7 per centum per annum on loans for such facilities that do not qualify for the 5 per centum per annum interest rate but are located in areas where the median household income of the persons to be served by the facility does not exceed 100 per centum of the statewide nonmetropolitan median household income."

must otherwise be consistent with the provisions of section 307(a)(3)(A).

Section 804--Assistance to communities dependent on natural resources

Section 804, in subsection (a), will amend section 303(b)(2) of Public Law 96-451, (16 U.S.C. 1606a(b)(2)) by increasing the cap, from $30,000,000 to 40,000,000 (of which, $10,000,000 must be subject to section 303(e)), on the amount that the Secretary may transfer to the Trust fund in any fiscal year.

Section 804, in subsection (b), will amend section 303(d) of the Act (16 U.S.C. 1606a(d)) to authorize the Secretary of Agriculture to obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) for economic diversification assistance to communities which are dependent to a significant degree upon Forest Service resource management decisions for their local economic activity.[7]

Section 804, in subsection (c), will amend section 303 of the Act (16 U.S.C. 1606a) by adding a new subsection (e).

New subsection 303(e) will provide that in each fiscal year

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[7]Currently under the Act, the Secretary of Agriculture may obligate such sums as are available in the Trust Fund (including any amounts not obligated in previous fiscal years) only for (1) reforestation and timber stand improvement as specified in section (3)(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974, and (2) properly allocable administrative costs of the Federal Government for the activities specified above.

$10,000,000 of the amounts transferred to the Trust Fund by the Secretary under section 303(b)(2) must be expended for purposes described in subsection 303(d)(2) and any such amount will be available only as provided for in annual appropriations Acts.

Section 805--Assisting certain distress community facility program borrowers

Section 805 will require the Secretary of Agriculture to establish and implement a program that is similar to the program established under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001)[8], except that the debt restructuring and loan servicing procedures will apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 306(a)). The Secretary must promulgate regulations,

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[8]Section 353 of the Act generally provides the following:
"The Secretary shall modify delinquent farmer program loans made or insured under this title, or purchased from the lender or the Federal Deposit Insurance Corporation under section 309B, to the maximum extent possible--
(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan principal and interest (subject to subsections (d) and (e)), and debt set-aside (subject to subsection (e)), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and
(2) to ensure that borrowers are able to continue farming or ranching operations."

not later than 120 days after the date of enactment of the bill, as modeled after those promulgated under section 353, to implement the program established under section 805.

Section 806--Water or waste disposal loans to benefit rural businesses

Section 806 will amend section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) to allow the Secretary to make or insure loans to associations, including corporations not operated for profit, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public and quasi-public agencies to provide for the application or establishment of soil conservation practices, shifts in land use, the conservation, development, use, and control of water, and the installation or improvement of drainage or waste disposal facilities, recreational developments, and essential community facilities including necessary related equipment, primarily serving rural businesses.[9]

Section 807--Water and waste facility loans and grants to alleviate health risks

Section 807 will amend the Consolidated Farm and Rural

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[9]Currently under the Act, the Secretary may make or insure loans for such specified purposes all primarily serving only farmers, ranchers, farm tenants, farm laborers, and other rural residents.

Development Act is amended by adding a new section 306A.

New section 306A, in subsection (a), will require the Secretary to make or insure loans and make grants to rural water supply corporations, cooperatives, or similar entities, and public agencies, to provide for--

(1) the conservation, development, use, and control of water (including the extension or improvement of existing water supply systems), and

(2) the installation or improvement of drainage or waste disposal facilities and essential community facilities including necessary related equipment.

These loans and grants will be available only to provide water and waste facilities and services to communities whose residents face significant health risks, as determined by the Secretary, due to the fact--

(1) that a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable water supply systems, or

(2) that a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable waste disposal facilities.

In addition, subsection (a), will provide that loans made or insured or grants made under new section 306A to rural water supply corporations, cooperatives, or similar entities, or public agencies will be made only if the loan or grant funds will be

used primarily to provide water or waste services, or both, to residents of a county in which--

(1) the per capita income of the residents of the county is less than or equal to 70 percent of the national average; and

(2) the unemployment rate of the residents of the county is greater than or equal to 125 percent of the national average.

New section 306A, in subsection (b), will require the Secretary to make or insure loans and make grants to individuals who reside in a community described in new section 306A(a) for the purpose of extending water supply and waste disposal systems or connecting such systems to the residences of such individuals. The loans will be at a rate of interest no greater than the current Federal Financing Bank rate on loans of a similar term at the time such loans are made. The repayment of the loans will be amortized over the expected life of the water supply or waste disposal system to which the residence of the borrower will be connected.

In addition, the loans and grants to individuals authorized under new section 306A(b)(1) must be made:

(1) directly to the individuals by the Secretary; or

(2) to the individuals through the rural water supply corporation, cooperative, or similar entity, or public agency, providing such water supply or waste disposal

services, pursuant to regulations issued by the Secretary.

New Section 306A, in subsection (c), will require the Secretary to give preference in the awarding of loans and grants to:

(1) rural water supply corporations, cooperatives, or similar entities, or public agencies, as provided under new section 306A(a), proposing to provide water supply or waste disposal services to the residents of those rural subdivisions commonly referred to as colonias, which are characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities; and

(2) individuals, as provided under new section 306A(b), who reside in a rural subdivision commonly referred to as a colonia, which is characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities.

New section 306A, in subsection (d), will define the term "cooperative", for the purposes of new section 306A, to mean a cooperative formed specifically for the purpose of the installation, expansion, improvement or operation of water supply or waste disposal facilities or systems.

New section 306A, in subsection (e), will provide that there are authorized to be appropriated funds to carry out the purposes of new section 306A as follows:

(1) for grants as provided by this section, $30,000,000 per fiscal year; and

(2) for loans as provided by this section, $30,000,000 per fiscal year.

EN BLOC AMENDMENT TO H.R. 3581

OFFERED BY MR. ENGLISH AND MR. COLEMAN

1. On page 10, line 16, insert immediately before the period ", for which there is available currently appropriated funds under such section".

2. On page 12, line 16, insert "'or panel'" after "means".

3. On page 13, line 6, strike "in the order in which ranked" and insert

"giving great weight to the order in which the applications for such projects are ranked by the respective State panel, and, if the projects to which assistance is provided are different from the ranking by the panel, report to the panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 10 days on the reasons for not assisting the projects as they were ranked by the panel".

4. On page 14, line 16, strike "in the order in" and insert "giving great weight to the order in".

5. On page 15, after line 17, add the following new subsection:

"'(h) ELIGIBILITY FOR WATER AND WASTE FACILITY LOANS.--Notwithstanding any other provision of law, a borrower under title III of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall be eligible to receive loans and grants under

section 306 on an equal basis with any other applicant for such assistance, and the terms and conditions, rules, criteria and other provisions of section 306 shall apply to such a borrower. In the case of applications from such a borrower, the Administrator of the Rural Electrification Administration shall provide technical assistance.'".

6. On page 16, insert after line 19 the following:

"(3) EVALUATE APPLICATIONS FOR ASSISTANCE.--To evaluate each application for assistance to determine whether the project to be carried out in any area is compatible with the area plan for the area in which the project described in the application is proposed, and either--

"(A) ACCEPT COMPATIBLE APPLICATIONS.--accept any application that the panel determines to be compatible with such area plan; or

"(B) RETURN INCOMPATIBLE APPLICATIONS.--return any application that the panel determines to be incompatible with such area plan.".

7. On page 16, line 20, redesignate paragraph (3) as paragraph (4), and make any necessary conforming changes.

8. On page 16, line 23, after "assistance" insert the following:

", that have been accepted pursuant to paragraph (3)(A),".

9. On page 18, line 18, strike all beginning with "and efficiency; and" through "jobs." on page 19, line 2, and insert the following:

"and efficiency;

"(IV) enhance commercial business activity; and

"(V) have the potential to promote long-term growth, including the increase in the number of persons residing in a rural community.

"Each State rural economic development review panel shall rank each such business or infrastructure project based on the potential of such project to promote the growth of a rural community by improving the ability of a rural community to increase the number of persons residing in the rural community.".

10. On page 19, redesignate paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and make any necessary conforming changes.

11. On page 20, amend lines 1 and 2 to read as follows:

"(1) VOTING MEMBERS.--The panel shall be composed of not more than 16 voting members who are representatives of rural areas--".

12. On page 20, line 24, strike all beginning with "(J) two" through "(I)" on page 21, line 3, and insert the following:

"(J) one of whom is appointed by the Governor from a statewide rural development organization which is not described in any of subparagraphs (C) through (I), but if no such statewide organization exists, there shall be no appointment made under this subparagraph and, notwithstanding paragraph (1), the panel shall be composed of not more than 15 voting members who are representatives of rural areas".

13. On page 21 strike lines 4 through 15, redesignate subparagraphs (N) through (S) accordingly, and make any necessary conforming changes.

14. On page 22, strike lines 9 through 12, and insert the following:

"(2) NON-VOTING MEMBERS.--The panel shall have not more than four non-voting members who shall serve in an advisory capacity and are representatives of rural areas--

"(A) one of whom is appointed by the dean, or the equivalent official, of the school or college of business of a college or university in the State selected by the Governor;

"(B) one of whom is appointed by the dean, or the equivalent official, of the school or college of engineering of a college or university in the

State selected by the Governor;

"(C) one of whom is appointed by the dean, or the equivalent official, of the school or college of agriculture of a college or university in the State selected by the Governor; and

"(D) the director of the State agency responsible for extension services for the State.".

15. On page 22, line 18 strike "or if there are fewer than two organizations described in subparagraph (J) of paragraph (1) of the entities described in such subparagraph".

16. On page 35, after line 5 insert the following new section:

"SEC. 307. RURAL WASTEWATER TREATMENT CIRCUIT RIDER PROGRAM.

"(a) ESTABLISHMENT.--The Secretary shall establish a national rural wastewater circuit rider grant program that shall be modeled after the existing National Rural Water Association Rural Water Circuit Rider Program that receives funding from the Farmers Home Administration.

"(b) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated $4,000,000 each fiscal year to carry out the program established under subsection (a).".

17. On page 45, line 18 insert "or publicly" after "investor".

18. On page 49--

(1) amend line 17 to read as follows:

"SEC. 712. GENERAL PROHIBITIONS.": and

(2) amend line 20 to read as follows:

"'SEC. 18. GENERAL PROHIBITIONS.".

19. On page 50, after line 14, insert the following new subparagraph:

"(C) the communications equipment, system, or other facilities are to be used by the electric borrower for functions relating to the many operations of an electric borrower in operating a rural electric system, including, but not limited to, loan control, dispatching, transmission of electric system data, and any other activity generally relating to or necessary in the operation of an electric system.".

20. On page 51--

(1) strike lines 12 and 13 and insert the following:

"SEC. 723. LOAN FEASIBILITY."; and

(2) strike lines 16 and 17 and insert the following:

"'SEC. 204. LOAN FEASIBILITY.".

21. Page 53, strike line 22 and all that follows through page 54, line 2, and insert the following:

"(2) in evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use the depreciation rates used to compile the most recent report of the borrower's operations filed by the borrower with the Rural Electrification Administration, or, in the absence of such a report, the rates used by the borrower

continued...

to calculate depreciation expenses in the most recent return of Federal income taxes (including information returns) filed by the borrower with the Internal Revenue Service; and

22. Page 54, beginning on line 3, strike ``loans are authorized under section 201'' and insert ``telephone loans are authorized under section 201 or 408''.

23. Page 54, line 10, insert '', unless all of the purposes for which loans have been made to the borrower under this Act have been accomplished with funds provided under this Act'' before the semicolon.

24. Page 55, line 6, strike ``each calendar quarter'' and insert ``the second and fourth calendar quarters of each year''.

25. Page 55, line 16, strike ``sixty'' and insert ``ninety''.

26. Page 55, line 19, strike ``sixty'' and insert ``ninety'

27. Page 57, strike lines 3 and 4 and insert the follow

Section 311 (7 U.S.C. 940a) is amended to read as follows:

28. Page 57, line 5, strike ``(d)''.

29. Page 57, beginning on line 10, strike ``after the subsection added by section 732 of this title'' and insert ``at the end''.

30. Page 57, line 13, strike ``(e)'' and insert ``(d)''.

31. Page 57, strike line 23 and all that follows through page 59, line 11.

32. Page 60, beginning on line 10, strike ``, by and with the advice and consent of the Senate,''.

33. Page 62, strike lines 16 and 17 and insert the following:

unless the casting of the vote would result in a tie vote on the matter.''.

34. Page 62, after line 17, insert the following:

(b) APPLICABILITY OF SUNSHINE ACT.--Section 405 (7

945) is amended by adding at the end the following:

``(j) OPEN MEETINGS.--For purposes of section 552b of title 5, United States Code, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(1) of such section.''.

35. Page 63, strike line 13 and all that follows through page 64, line 21.

36. Page 65, beginning on line 24, strike ``(including the balance of all rescinded loans)''.

37. Page 66, beginning on line 4, strike ``(including the balance of all rescinded loans)''.

38. Page 66, beginning on line 12, strike ``(including the balance of all rescinded loans)''.

39. On page 74, after line 22 insert the following new section:

"SEC. 808. PRESERVATION OF ELIGIBILITY."

"Notwithstanding any other provision of law, nothing in this Act shall be construed to adversely affect the eligibility, as it existed on the date of enactment of this Act, of cooperatives and other entities for any other credit assistance under Federal law.".

AMENDMENT TO
H.R. 3581
OFFERED BY MR. MORRISON

Insert the following on page 74 after line 22:

Title IX - Forest Dependent Communities Economic Diversification

Sec. 901 - Short Title

"This title may be cited as the "Forest Dependent Communities Economic Diversification Act of 1989."

Sec. 902. Findings and Purpose.

(a) Findings. -- Congress finds that --

(1) The economic well-being of rural America is vital to overall national growth and prosperity;

(2) The economies of many rural communities depend upon the goods and services which are derived from national forests;

(3) Many forest dependent communities suffer from a lack of industrial and business diversity;

(4) This lack of diversity is particularly serious in communities which are dependent on National forest resources where land management decisions adversely affect the supply of those resources;

(5) The Forest Service has expertise and resources that could be directed to help improve forest dependent communities by promoting economic diversification of industries and services based on forest resources; and

(6) Technical assistance, training, education and other assistance provided by the National Forest Service could be targeted to provide immediate help to those forest dependent communities in greatest need.

(b) Purpose. -- It is the purpose of this title to provide assistance to rural communities now dependent on National forest resources to aid in diversifying their economic bases to ensure the economic, social, and environmental well-being of rural America.

Sec. 903. Definitions

(a) For the purposes of this title, "rural communities" means communities, towns, cities, or other governmental entities that have at least a 20-percent economic dependency on the goods

and services which are derived from units of the National Forest System and that have been, or are likely to be economically disadvantaged as a result of land management decisions.

SUBTITLE A - RURAL COMMUNITIES DEPENDENT ON FEDERAL FOREST LAND RESOURCES

Sec. 910. Rural Forestry and Economic Diversification Action Teams

(a) The Secretary of Agriculture (hereafter "the Secretary") shall establish Rural Forestry and Economic Diversification Action Teams (hereafter "Action Teams") to provide technical assistance to rural communities upon request in identifying opportunities and preparing Action plans to aid in promoting their economic diversification.

(b) Action Teams shall be designed and organized to meet the unique needs of the requesting rural communities. Each Action Team shall be lead by a Forest Service employee and shall include personnel from other agencies within the Department of Agriculture; other Federal departments and agencies; and the State and private sector, as the Secretary deems appropriate.

Sec. 911. Cost-sharing Partnerships

(a) The Secretary shall make available cost-sharing partnerships (hereafter "partnerships") through the Forest Service to rural communities and rural development entities (such as Resource Conservation and Development Areas and State Planning and Development organizations) to implement projects that will enhance and diversify the local economies now dependent on National forest resources.

(b) Partnerships shall, insofar as possible, be designed to expand the economic base of forest dependent communities beyond the resources provided by the national forests.

(c) Federal funds expended for each partnership shall not exceed 80 percent of the total cost of the partnership. Non-federal contributions to each partnership may be in the form of cash, services, or equipment, as appropriate.

(d) Counties shall be permitted to use up to five percent of the funds reserved in accordance with provisions of the Act of May 23, 1908 (16 U.S.C. 500) as their portion of the cost-sharing partnerships.

Sec. 912. Training and Education.

(a) The Cooperative Extension Service shall develop and administer a program to provide training to individuals employed, directly or indirectly, by industries or services dependent on

Federal forest land Resources.

(1) Such training shall be in other industries or services not dependent on Federal forest land resources.

(2) The Cooperative Extension Service shall use existing educational institutions and other Federal programs to implement such training insofar as possible.

(b) Training shall be coordinated by the Cooperative Extension Service for elected or appointed officials of rural communities and other key community leaders to enable them to become effective advocates of rural economic diversification.

SUBTITLE B -- FORESTRY DEPENDENT COMMUNITY ECONOMIC DIVERSIFICATION LOAN FUND

Sec. 920. Forestry Dependent Community Economic Diversification Loan Fund

(a) There is hereby created in the Treasury a Forestry Dependent Community Economic Diversification Loan Fund (hereafter the "loan fund") to be administered by the Secretary. Beginning with the fiscal year in which this title is enacted, five percent of all monies received during each fiscal year from each unit of the National Forest System shall be deposited in the loan fund: Provided, that this subsection shall not in any way affect payments to the States pursuant to the Act of May 23, 1908 (16 U.S.C. 500).

(b) Monies held in the loan fund shall be dispursed in the following manner:

(1) not less than 50 percent of the funds in this account shall be made available for loans in accordance with the provisions of Section 921;

(2) not less than 25 percent shall be made available for the federal portion of the cost-share partnerships authorized under Section 911; and

(3) not more than 25 percent shall be made available to implement the provisions of Sec. 910.

Sec. 921. Loans to Rural Communities Dependent on Federal Forest Lands

(a) Beginning with the first full fiscal year after the date of enactment of this title, the loan fund shall be made available annually by the Secretary for loans to forest dependent communities for the purpose of--

(1) improving existing facilities to make them more efficient;

(2) expanding existing facilities and services to capitalize on opportunities to diversify rural economies now dependent on national forest resources; and

(3) supporting the development of new industries or businesses.

(b) Loans made under this subtitle shall be at a rate prescribed by Secretary, but not in excess of 5% per annum.

SUBTITLE C -- ADMINISTRATIVE PROVISIONS

Sec. 930. Administrative Provisions.

(a) In carrying out the purposes of this title, the Secretary is authorized to enter into contracts with State and local governments, universities, and private companies for procurement of services needed.

(b) This title shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any such existing law unless otherwise identifies.

(c) Within 120 days after the date of enactment of this title, the Secretary shall develop regulations for the implementation of this title.

SUBTITLE D -- APPROPRIATIONS

Sec. 940. Apprpriations

(a) There is hereby authorized to be appropriated such sums as may be required to carry out the provisions of this title.

(b) All funds appropriated pursuant to this authorization shall remain available until expended.

Water and Waste Loans and Grants for Consolidation and Economies

**********NOTE: Page numbers are from original version of introduced bill, not from printed version.**********

Title II, section 201, page 9, line 15, after "306(a)" insert "306B".

Title II, section 201, page 17, line 1, insert the following, and renumber the remaining paragraphs:

"(5) RANKING FOR CONSOLIDATION AND ECONOMIES.—To give full consideration in reviewing and ranking applications for projects designed to promote economies and consolidations of water and waste disposal services, as authorized by section 306B, to the economies and efficiencies that would result from such applications, in addition to considering the other criteria of paragraph (3)."

Title VIII, add at the end thereof the following new section:

"SEC. 808. WATER AND WASTE FACILITY LOANS AND GRANTS FOR CONSOLIDATION AND ECONOMIES.

The Consolidated Farm and Rural Development Act is amended by adding after section 306A the following new section :

"SEC. 306B. WATER AND WASTE FACILITY LOANS AND GRANTS FOR CONSOLIDATION AND ECONOMIES.

(a) The Secretary shall make or insure loans and make grants for water and waste disposal facilities to serve persons or businesses in rural areas to-

(1) rural water and waste cooperatives and consolidated water districts which are formed by the consolidation or federation of rural water or waste systems in existence on the date of enactment of this section, and the management services of which have been consolidated;

(2) rural water and waste cooperatives and consolidated water districts, and borrowers under Title III of the Rural Electrification Act, which are not the result of a consolidation or federation described in paragraph 1, which provide or will provide water or waste disposal services in an area not defined by local political jurisdictions, and which due to its size and other characteristics is expected to be operated in a manner which will achieve management efficiencies.

(b) PRIORITY.-The Secretary shall give priority to borrowers which-

(1) serve rural areas that would benefit the most from the delivery of water and waste services, and where such services would assist the community in retaining existing population or increasing the number of persons residing in such communities.

(2) have achieved or will achieve the greatest economies of scale in the delivery and management of water and waste facilities and services.

(c) TERMS AND CONDITIONS AND OTHER REQUIREMENTS.-Loans and grants made under this section shall be made under the same terms, conditions, and other requirements and provisions as loans made for water and waste disposal under section 306 There are authorized to be appropriated such sums as may be required to carry out this section. Funds appropriated under this section shall remain available until expended. In the case of loans made under this section to borrowers under Title III of the Rural Electrification Act, the Administrator of the Rural Electrification Administration shall assist in facilitating the processing of such applications."

Mr. Chairman, I am offering an amendment to authorize loans and grants to consolidated rural water and waste systems, rural water and waste cooperatives and rural electric cooperatives. These funds would be administered through the pool. And priority would be provided to borrowers which can directly contribute to the growth and stability of a community and the effeciency of water and waste delivery.

This amendment would be an incentive to get away from small, contained water districts and move to more efficient systems by prodding rural water districts to consolidate and rural electric cooperatives to service multi-jurisdictional areas. The bottom line is that to qualify for funds, you must serve economies of scale.

In this Subcommittee's hearings on rural development, we heard a continuing refrain: "Rural communities have a surplus labor force, lower taxes, an availability of inexpensive land and plenty of natural resources. What we don't have is the life-line for any economic development, water and sewer services."

A community can have all the technical expertise, leadership and potential in the world but without an adequate water and sewer system in place it's going nowhere.

A quality sewer and water system is the first thing a company looks for in relocation and it's a community's first demonstration that you are ready, willing and able to meet that company's future needs.

It's the first test and for far too many communities in our State and District it becomes the last one.

Water and waste cooperatives and rural electric cooperatives are the natural delivery mechanisms to serve towns and areas that are lacking adequate water and waste services now.

This amendment will maximize the efficiency of these systems through centralization. Centralization in delivery is effective in the case of infrastructure programs because it permits standardization, national focus, and economies of scale. The electr and telephone programs of REA are prime examples of the advantages o this type of centralization.

I feel strongly that we should give the co-ops a mandate to bring water and sewer to rural communities with the same vigor and commitment that we saw with electricity.

Water and sewer lines are what it takes to move a community from rural to rural developed.

And, the co-ops have the leadership and the capability to make water and sewer a reality for all of America.

BRIEF EXPLANATION

OF AMENDMENT NO. 1 OFFERED BY THE HONORABLE FRED GRANDY

TO REAUTORHIZE AND IMPROVE SECTION 1323 OF THE FOOD SECURITY ACT OF 1985

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* The Section 1323 National Rural Development and Finance Corporation Porgram aurthoized $14 million in grants and $20 million in loan guarantees to seed the efforts of states, localities, private lenders and community-based organizations to cooperate in fostering off-farm, job-creating enterprises in depressed rural areas.

* The Program required a departure from USDA's standard operating procedures for development programs. Significant delays, including some requiring additional legislation, were encountered in implementing the Program.

* In spite of these delays and unnecessary technical complexities incorporated into the USDA regulations, twenty governors affiliated with the Program, pledged non-federal funds and took steps to establish coordinated, state-wide, rural development efforts.

* These states (as well as several others expressing an interest in affiliate status) include the highest concentrations of rural residents in the United States. The funds authorized in the Food Security Act of 1985 are insufficient to assist in start-up efforts in half of the states currently affiliated with the Program.

THE PROPOSED AMENDMENTS TO SECTION 1323 WOULD:

* Eliminate unnecessary complexities in the Section 1323 Program that have inhibited private lender participation and coordination among participating state, local, and community agencies.

* Provide additional loan guarantee authority for three fiscal years. This authority would come from the traditionally underutilized B&I loan guarantee program.

* Permit state affiliates that have demonstrated the capability to provide technical assistance themselves and to operate a revolving loan program in rural areas to receive such funds directly.

AMENDMENT NO. 1 TO H.R.3581

OFFERED BY THE HONORABLE FRED GRANDY

To Reauthorize and Improve the Rural Development Program Created Under Section 1323 of the Food Security Act of 1985.

On page 35, after line 5, insert the following new section:

"SEC. 308. NATIONAL RURAL DEVELOPMENT AND FINANCE CORPORATIONS.

Section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note) is amended as follows--

(1) by striking out "to September 30, 1988," wherever it appears therein and inserting in lieu thereof "to September 30, 1991,";

(2) in subsection (a)(4), by striking out "fiscal year ending September 30, 1987," and inserting in lieu thereof "fiscal years ending September 30, 1989, September 30, 1990, and September 30, 1991,";

(3) by adding at the end of subsection (a) the following new paragraphs:

"(6) Notwithstanding any other provision of law, lenders that have provided loans that are guaranteed under this subsection shall have limited reporting responsibilities, as determined by the Secretary, concerning such loans, and the national rural development and finance corporation shall be primarily responsible for the issuance of final reports concerning such loans.

"(7) Notwithstanding any other provision of law, loan guarantees provided under this subsection shall be for a period not to exceed 15 years."; and

(4) in subsection (b)(1) --

(A) by striking out "from funds transferred under paragraph (2)";

(B) by inserting the words "or expanding" after the word "establishing"; and

(C) by adding the following new sentence at the end thereof: "Such grants may also be made directly to affiliated statewide programs if the corporation certifies to the Secretary that they are able to establish effective, ongoing State programs on rural development and revolving finance."; and

(5) by adding at the end thereof the following new subsection:

"(c) Nonprofit national rural development and finance corporations and affiliated Statewide programs that receive grants under subsections (a) or (b) may use not to exceed 10 percent of the amount of such grants over a 2-year period for program operation and administration costs.".

NONPROFIT NATIONAL CORPORATIONS (NNC) LOAN AND GRANT PROGRAM

Fiscal Year 1987 Obligations

National Rural Development and
Finance Corporation
1718 Connecticut Avenue, NW., Suite 400
Washington, D.C. 20009
(States: Alabama, Iowa, Mississippi, New York, Oklahoma, Pennsylvania South Carolina, Texas, Virginia, California and Washington
Loan Guarantee - obligated 2, totalling $6,140,000
Grant - $4,853,668
CONTACT: Mr. Neal Nathanson - Telephone: (202) 429-9017

Midwest Minnesota Community Development Corporation
803 Roosevelt Avenue, Suite 301
Detroit Lakes, Minnesota 56501
(States: Illinois, Minnesota, South Dakota, Kansas and Nebraska.)
Loan Guarantee - obligated 9, totalling $9,000,000
Grant - $5,010,000
CONTACT: Mr. Arlen Kangas - Telephone: (218) 847-3191

Southern Development Foundation
P.O. Box 3005
Lafayette, Louisiana 70501
(States: Louisiana, Kentucky, Alabama, Mississippi, Tennessee, South Carolina, Georgia and Florida.)
Loan Guarantee - obligated 1 for $4,000,000
Grant - $4,400,000
CONTACT: Mr. Marvin Beaulieu - Telephone: (318) 232-7672

Total obligations - Loan Guarantee - $19,140,000
- Grant - $14,263,668

NONPROFIT NATIONAL CORPORATIONS (NNC) LOAN AND GRANT PROGRAM

Fiscal Year 1987 Obligations

National Rural Development and
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1718 Connecticut Avenue, NW., Suite 400
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(States: Alabama, Iowa, Mississippi, New York, Oklahoma, Pennsylvania
South Carolina, Texas, Virginia, California and Washington
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Total obligations - Loan Guarantee - $19,140,000
- Grant - $14,263,668

AN AMENDMENT TO H.R. 3501

OFFERED BY MR. STALLINGS

To provide for housing lending by Farm Credit Banks
if such loans are discounted
through the Federal Agricultural Mortgage Corporation

On page 32, strike lines 8 through 17 and insert the following:

SEC. 303. RURAL HOUSING FINANCING BY THE FARM CREDIT BANKS.

Section 1.1(b)(3) of the Farm Credit Act of 1971 (12 U.S.C. 2019(b)(3)) is amended by--

(1) inserting "(A)" before "For rural housing purposes"; and

(2) adding at the end the following new subparagraph:

"(B) Notwithstanding subparagraph (A), the term 'rural areas' shall not be defined to include, for loans guaranteed by the Federal Agricultural Mortgage Corporation under section 8.6, any city or village having a population in excess of 20,000 inhabitants.".

SEC. 304. SECURITIZATION OF HOUSING LOANS.

(a) INCREASE IN SIZE OF COMMUNITIES SERVED.--Section 8.0(1)(B) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(1)(B)) is amended--

(1) in clause (i) by--

(A) inserting "in the case of loans not guaranteed by the Federal Agricultural Mortgage Corporation under section 8.6," before "any community"; and

(B) striking "and" at the end of clause (i);

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following:

"(ii) in the case of loans guaranteed by the Federal Agricultural Mortgage Corporation under section 8.6, any community having in excess of 20,000 inhabitants; and".

AMEMDMENT TO BE OFFERED BY: Congressman Dave Nagle

On page 39, line 24, after "unemployment" add the following:

"or underemployment".

Purpose to conform the provision of subsection (g) with subsection (h).

AMENDMENT NO. 2 TO H.R.3581
OFFERED BY
THE HONORABLE FRED GRANDY

On page 41, after line 18 add the following new section:

SEC. 403. **ESTABLISHMENT OF CENTERS FOR COOPERATIVE RESEARCH, EDUCATION, TRAINING, AND DEVELOPMENT.**

(a) NATIONAL CENTER.—

(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish a National Center for Cooperative Research, Education, Training, and Development at a land grant university which has demonstrated a commitment to cooperative enterprise.

(2) FUNCTIONS.—The National Center for Cooperative Research, Education, Training, and Development shall act as a clearinghouse for information relating to research, education, training, and development of cooperatives in rural areas, and shall monitor such issues at the national level.

(b) REGIONAL CENTERS.—

(1) ESTABLISHMENT.—The Secretary of Agriculture, in consultation with representatives from the cooperative community who have expertise in cooperative rural development, research,

education, and extension, shall establish a regional center for cooperative research, education, training, and development at appropriate institutions of higher education in States selected by the Secretary which agree to provide for such purpose at least ⅓ of the dollar amount provided by the Federal Government for such purpose.

(2) FUNCTIONS.—Each regional center for cooperative research, education, training, and development shall—

(A) expand, enhance, and support effective rural development efforts;

(B) meet the research, information, and educational needs of cooperatives in rural areas; and

(C) coordinate its activities with the National Center for Cooperative Research, Education, Training, and Development.

(c) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary of Agriculture not to exceed $10,000,000 for each fiscal year. Amounts appropriated pursuant to this subsection shall remain available until expended. "

Renumber current Section 403 as Section "404" on page 41, line 19.

REDA7

[Title VII amendments]
[11-13-89]

AMENDMENT TO H.R. 3581, AS INTRODUCED
OFFERED BY MR. ENGLISH AND MR. COLEMAN

Page 49, strike lines 13 through 16.

AMENDMENT #1 TO H.R. 3581

OFFERED BY MR. TALLON

To provide for the equitable reallocation of unexpended rural development program funds

(1) Amend page 14, line 11, to read as follows:

"'(e) ALLOCATION OF APPROPRIATED FUNDS.--

"(1) LIMITED REPROGRAMMING AUTHORITY.--The".

(2) On page 15, after line 8 add the following new paragraph:

"(2) EQUITABLE REALLOCATION OF UNEXPENDED FUNDS.--Notwithstanding paragraph (1), the Secretary shall, on July 1 of each year, pool from among the States any remaining funds appropriated for direct loans, loan guarantees, or grants for each designated rural development program and reallocate such funds according to need, as determined by the Secretary.".

PENNY008

[11/8/89]

AMENDMENT TO H.R. 3581
OFFERED BY MR. PENNY

After the heading to title VI, insert the following:

Subtitle A--Research

At the end of title VI, insert the following new subtitle:

Subtitle B--Research Commercialization

SEC. 611. SHORT TITLE.

This subtitle may be cited as the ``Agricultural Research Commercialization Act of 1989''.

SEC. 612. FINDINGS AND PURPOSE.

(a) FINDINGS.--Congress finds that--

(1) many of the emerging new ideas, products, and processes resulting from agricultural research have never been commercialized because of the high initial financing costs and high risk; and

(2) the careful targeting of financial assistance to entrepreneurs for the commercialization of new industrial

uses of agricultural and forestry products will be a cost effective means of stabilizing the agricultural sector and redeveloping the rural economy.

(b) PURPOSE.--It is the purpose of this subtitle through the Corporation established pursuant to section 614--

(1) to commercialize new nonfood, nonfeed uses for traditional and new agricultural crops in order to create jobs, to enhance the economic development of the rural economy, and to diversify markets for raw agricultural and forestry products;

(2) to encourage cooperative development and marketing efforts among manufacturers, financiers, universities, and private and government laboratories in order to accelerate the commercialization of new industrial uses for agricultural and forestry products; and

(3) to direct, to the maximum extent possible, commercialization efforts toward the development of new products from crops that can be raised by family-sized agricultural producers.

SEC. 613. DEFINITIONS.

For purposes of this subtitle:

(1) ASSISTANT SECRETARY.--The term ``Assistant Secretary'' means the Assistant Secretary of Agriculture for Science and Education.

(2) BOARD.--The term ``Board'' means the Board of Directors established pursuant to section 618.

(3) COMMERCIALIZATION.--The term ``commercialization'' or ``commercialize'' includes--

(A) activities associated with the development of prototype products or manufacturing plants;

(B) the application of technology and techniques to the development of industrial production; and

(C) the market development of new industrial uses of new and traditional agricultural and forestry products and processes that will lead to the creation of goods and services that may be marketed for profit.

(4) CORPORATION.--The term ``Corporation'' means the Agricultural Research Commercialization Corporation established in section 614.

(5) HOST INSTITUTION.--The term ``host institution'' means an entity that is located in the region that is--

(A) a university or other institution of higher education;

(B) an Agricultural Research Service laboratory;

(C) a State Agricultural Experiment Station;

(D) an Extension Service facility; or

(E) another organization that is involved in the development or commercialization of new industrial

uses for agricultural commodities, or is involved in rural economic development.

(6) REGIONAL CENTER.--The term ``Regional Center'' means a Center established pursuant to section 616.

(7) SECRETARY.--The term ``Secretary'' means the Secretary of Agriculture

SEC. 614. ESTABLISHMENT OF CORPORATION.

(a) IN GENERAL.--There is established within the Department of Agriculture a body corporate to be known as the ``Agricultural Research Commercialization Corporation''.

(b) CENTRAL OFFICE.--The Secretary shall provide facilities for the principal office of the Corporation within the National Agricultural Library located in Beltsville, Maryland.

(c) ESTABLISHMENT OF REGIONAL CENTERS.--The Corporation shall establish a minimum of four and a maximum of nine Regional Centers in the United States, as provided for in section 616.

SEC. 615. POWERS OF THE CORPORATION.

(a) NONPROFIT CORPORATE POWERS.--To carry out this subtitle, the Corporation has the powers conferred on a nonprofit corporation under the District of Columbia Nonprofit Corporation Act.

(b) GENERAL POWERS.--In addition to any specific power granted to the Corporation elsewhere in this subtitle, the

Corporation shall have the power--

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental agencies, except that the Corporation shall not provide any financial assistance unless specifically permitted under this subtitle;

(3) to lease, purchase, accept gifts or donation of, or otherwise to acquire, and to use, own, hold, improve, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and to be sued in its corporate name and to complain and defend in any court of a competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which actions it will be represented by the Attorney General;

(6) subject to this subtitle, to select, employ, and fix the compensation of any such officers, employees, attorneys and agents as shall be necessary for the

transaction of the business of the Corporation;

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may consider necessary or desirable;

(8) to indemnify Directors and officers of the Corporation, as the Board of Directors may consider necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out this subtitle and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to obtain the services and fix the compensation of consultants;

(11) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(12) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation, to carry out this section, and to the exercise of its powers, purposes, functions, duties, and authorized activities.

(c) VOLUNTARY SERVICES.--Notwithstanding section 1342 of

title 31, United States Code, the Corporation is authorized to accept and utilize voluntary and uncompensated services.

(d) GOVERNMENT CORPORATE CONTROL ACT.--The Corporation shall be considered a wholly-owned corporation for the purposes of the Government Corporate Control Act.

SEC. 616. REGIONAL CENTERS.

(a) LOCATION.--

(1) IN GENERAL.--Each Regional Center established by the Corporation pursuant to section 614 shall be located in a different State, reflective of regional climatic conditions, rural economic stress, and the qualifications of the applicant to serve as the host institution for a Regional Center and to carry out the duties of the Corporation.

(2) COMPETITIVE AWARDING.--Host institutions desiring to have a Regional Center located in their region shall submit a proposal for such location to the Board. The Board shall determine the location of such centers based on a competitive review of the contents of such proposals.

(3) HOST INSTITUTIONS.--Each Regional Center shall be located at a host institution in the region.

(4) MATCHING OF FUNDS.--

(A) IN GENERAL.--Each candidate host institution submitting a proposal for a Regional Center under

this section shall provide assurances--

(i) that adequate funds or in-kind support (including office space, equipment and staff support) shall be provided to match the amount of funds used for administrative costs that are provided by the Federal government under this subtitle;

(ii) that it is qualified to carry out the activities required of a Regional Center;

(iii) concerning such other factors as the Corporation shall determine appropriate.

(B) APPLICANTS.--The matching funds required under subparagraph (A) may be provided by a consortia that may include the host institution and other public or private entities existing within various regions of the United States, including State and local governments, entities created by State and local governments, charitable organizations, public and private universities and other institutions of higher education, cooperatives, and economic development organizations.

(b) ACTIVITIES.--Each Regional Center shall carry on activities provided for in this subtitle and such other activities as the Board shall from time to time delegate to such Centers.

(c) REGIONAL DIRECTOR.--Each Regional Center shall be headed by a full-time Regional Director who shall--

(1) be selected by the Board;

(2)(A) have a scientific or engineering background; or

(B) have experience in the development of new products or processes in the public or private sector.

(d) ADVISORY COUNCILS.--

(1) APPOINTMENT.--The Board shall appoint an Advisory Council for each Regional Center. Such Council shall advise the Regional Director concerning all applications for assistance as described in section 625.

(2) COMPOSITION.--An Advisory Council shall be comprised of representatives of the public sector, the financial sector, the private business community, State and local governments, educational institutions, private and Federal laboratories, the agricultural sector, scientists, and engineers. An Advisory Council shall be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2).

(3) DUTIES.--

(A) PRIMARY DUTY.--The primary duty of the members of an Advisory Council shall be to review or coordinate the review of the technical, engineering, financial, and managerial soundness and marketing

potential of the applications for assistance received under this subtitle.

(B) MONITORING ACTIVITIES.--An Advisory Council may assist a Regional Director in monitoring the progress of ongoing projects by providing technical and business counseling when needed.

(C) TECHNICAL AND BUSINESS COUNSELING.--An Advisory Council may provide technical and business counseling to entities not seeking financial assistance from the Corporation, but that are engaged in commercializing nonfood, nonfeed uses of agricultural and forestry commodities.

SEC. 617. ACTIVITIES OF THE REGIONAL CENTERS.

A Regional Center shall--

(1) encourage interaction among private and Federal laboratories, National Science Foundation centers, Department of Agriculture research programs, and other Federal resources, State and local regional economic development programs, universities, colleges, the private sector and the financial community, for the purpose of evaluating and commercializing new, nonfood, nonfeed uses of agricultural and forestry products;

(2) identify broad areas where commercialization of new products and processes can contribute to the economic growth in rural areas of the United States, through the

development of new, nonfood, nonfeed uses for farm and forest products by private companies and businesses;

(3) provide technical assistance and related business and financial counseling for small American businesses to commercialize new, nonfood, nonfeed uses of agricultural and forestry products;

(4) identify new nonfood, nonfeed products and processes that are worthy of financial assistance;

(5) make use of existing programs in scientific, engineering, technical and management education that will support the accelerated commercialization of new, nonfood, nonfeed products and processes using farm and forest products;

(6) advise the Corporation on the viability of specific proposals submitted for financial assistance and on the type of assistance, if any, to be provided; and

(7) coordinate their activities with the Small Business Development Centers authorized by section 21 of the Small Business Act (15 U.S.C. 648).

SEC. 618. CORPORATE BOARD OF DIRECTORS.

(a) MEMBERSHIP.--

(1) IN GENERAL.--The Board shall consist of nine members, who shall be citizens of the United States, of which--

(A) one member shall be the Assistant Secretary;

(B) one member shall be the Under Secretary of Agriculture for Small Community and Rural Development; and

(C) seven members shall be appointed by the Secretary.

(2) EXPERIENCE.--In appointing the members to the Board under paragraph (1), the Secretary shall assure that the members appointed under subparagraph (C) are representative of the agricultural, scientific, financial, and managerial community.

(3) CHAIRPERSON.--The Board shall elect a Chairperson from among the members of the Board referred to in paragraph (1).

(4) OTHER EMPLOYMENT.--A Director may hold a position in the private sector at the same time as such Director is serving on the Board.

(b) TERM OF OFFICE.--

(1) IN GENERAL.--A member of the Board appointed under subsection (a)(1)(C) shall be appointed for a term of 5 years.

(2) INITIAL MEMBERS.--The initial members of the Board appointed under subsection (a)(1)(C) shall serve as follows:

(A) Three members shall serve a term of 4 years.

(B) Three members shall serve a term of 3 years.

(C) One member shall serve a term of 2 years.

(c) OATH.--Before assuming office, each member of the Board shall take an oath to faithfully discharge the duties of the individual's position as a member of such Board.

(d) MEETINGS, QUORUM, ACTIONS.--

(1) MEETINGS.--The Board shall meet in accordance with the bylaws of the Corporation, and at any time pursuant to the call of the Chairperson, but the Board shall not meet less than twice annually to review financial applications. For the purpose of section 552b of title 5, United States Code, the Board shall be considered to be an agency.

(2) QUORUM AND ACTIONS.--A majority of the Board members shall constitute a quorum. Any action by such Board shall require a majority vote of all members of tne Board.

SEC. 619. POWERS AND DUTIES OF CORPORATE BOARD.

(a) POWERS.--

(1) VESTING.--The powers of the Corporation shall be vested in the Board.

(2) OFFICERS.--The Board shall establish the offices and appoint the officers of the Corporation (which may include a General Counsel, Treasurer, and an Executive Director) and define the duties of such offices.

(b) DELEGATION OF AUTHORITY.--

(1) CORPORATE BOARD.-The Board may, by resolution, delegate to the Chairperson and any other director any function, power, or duty assigned to the Corporation under this section other than those expressly vested in the Board.

(2) CHAIRPERSON.--The Chairperson may, by written instrument, delegate such function, power, or duty as is assigned to the Chairperson pursuant to this section, to such other director, officer, or employee of the Corporation as the Chairperson considers appropriate.

(c) DELEGATION NOT PERMITTED.--

(1) IN GENERAL.--Notwithstanding any other provision of law, the Secretary and any other officer or employee of the United States shall not make any delegation to the Board, the Chairperson, or the Corporation of any power, function, or authority not expressly authorized by this subtitle, except where such delegation is pursuant to an authority in law that expressly makes reference to this subtitle.

(2) REORGANIZATION ACT.--Notwithstanding any other provision of law, chapter 9 of title 5, United States Code, shall not apply to authorize the transfer to the Corporation of any power, function, or duty.

(d) BYLAWS.--The Board shall adopt, and may from time to time amend, such bylaws as are necessary for the proper

management and functioning of the Corporation.

(e) ORGANIZATION.--The Board shall provide a system of organization to fix responsibility and promote efficiency within the Corporation.

(f) GOVERNMENT EMPLOYMENT LAWS.--Directors, officers, and employees of the Corporation shall be subject to all laws of the United States relating to governmental employment, including the provisions of title 5, United States Code, relating to compensation.

(g) POLITICAL QUALIFICATIONS.--No political test or qualifications shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

SEC. 620. COMPENSATION.

(a) CORPORATE BOARD.--Members who serve on the Board, except for the Under Secretary identified in section 618(a)(1)(B) and the Assistant Secretary, shall receive compensation at a rate equivalent to the daily rate paid under Level II of the Executive Schedule under section 5312 of title 5, United States Code, as well as reasonable expenses incurred in carrying out the business of the Corporation, as approved by the Board.

(b) OFFICERS AND EMPLOYEES.--The Board may, if determined necessary and approved by the Secretary, fix the rate of compensation of no more than one officer position or other

position at a rate or rates in excess of that prescribed for Level II of the Executive Schedule under section 5312 of title 5, United States Code.

SEC. 621. FINANCIAL DISCLOSURE AND CONFLICTS OF INTEREST.

(a) FINANCIAL DISCLOSURE.--The Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.) shall apply to the Directors and all of the other officers and employees of the Corporation as if such individuals were Federal employees.

(b) CONFLICTS OF INTEREST.--

(1) IN GENERAL.--Except as permitted in paragraph (3), no member of the Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, such member, spouse or minor child of such member, partner or organization (other than the Corporation) in which such member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom such member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) REMOVAL.--Action by a member of the Board that is contrary to the prohibition contained in paragraph (1) shall be cause for removal of such member pursuant to the powers of the Corporation in section 615, but shall not impair or otherwise affect the validity of any otherwise

lawful action by the Corporation in which the member or officer participated.

(3) INFORMED CONSENT.--The prohibition contained in paragraph (1) shall not apply if--

(A) the member of the Board--

(i) advises the Board of the nature of the particular matter in which such member proposes to participate in; and

(ii) makes a full disclosure of such financial interest, prior to any participation; and

(B) the Board determines, by majority vote, that the finar ial interest is too remote or too inconsec ncial to affect the integrity of such member' ervices to the Corporation in that matter.

The member involved shall not participate in such determination.

SEC. 622. AUTHORIZATION OF ADMINISTRATIVE EXPENDITURES.

(a) CORPORATE EXPENDITURES.--In each fiscal year the Corporation is authorized to expend amounts for--

(1) reasonable and necessary administrative expenses, not to exceed 5 percent of amounts made available in any fiscal year; and

(2) generic studies and specific reviews of individual proposals for financial assistance, which

shall not exceed 3 percent of amounts made available in any fiscal year.

(b) ADMINISTRATIVE EXPENDITURES.--For purposes of this section, administrative expenditures shall include--

(1) all ordinary and necessary expenses (including all compensation for personnel and consultants, expenses for computer usage, or space needs of the Corporation and similar expenses); and

(2) reimbursement to members of the Board for reasonable expenses that are incurred in connection with the service of the Corporation.

(c) LIMITATION.--Expenditures authorized under subsection (a)(2) shall not be available--

(1) for administrative expenses;

(2) for the reimbursement of governmental agencies for the salaries of personnel of such agencies detailed to the Corporation; or

(3) for operating expenses.

(d) REAL PROPERTY.--Funds authorized for administrative expenditures shall not be available for the acquisition of real property.

SEC. 623. CRIMINAL SANCTIONS.

Section 1905 of title 18, United States Code, shall apply--

(1) to Directors, officers, and employees of the

Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as if it were a Federal agency.

SEC. 624. FINANCIAL ASSISTANCE.

(a) IN GENERAL.--The Corporation, through the Regional Directors, in accordance with the criteria provided for in section 625, may provide, to projects for the commercialization of new, nonfood, nonfeed products using agricultural and forestry commodities, financial assistance in the form of--

(1) loans made or insured by the Corporation (backed by the full faith and credit of the United States);

(2) interest subsidy payments made by the Corporation to the lender equal to an amount determined pursuant to and agreement between the Corporation, the lender, and the borrower;

(3) venture capital invested by the Corporation in the form of a convertible debenture;

(4) repayable grants that are matched by private, State or local public funds and that are repaid as agreed in a contract between the Corporation and entity; and

(5) umbrella bonding.

(b) DISCRETIONARY FUNDS.--The Board may establish a discretionary fund for each Regional Center of not more than

1 percent of the amounts made available to carry out this section. Such funds shall be used for activities related to financial assistance described under this section and section 625. Each 6 months, a regional Director shall prepare and submit to the Board a report that accounts for expenditures made from this fund.

(c) OVERSIGHT OF PROJECTS.--

(1) IN GENERAL.--The Corporation shall monitor the progress of the projects that receive financial assistance under this Act.

(2) TYPE OF OVERSIGHT.--Such oversight may include on-site reviews, written reports, and supportive business and technical counseling, as needed. The Director may call on the Advisory Council to assist in such monitoring.

(3) DEMONSTRATION BY APPLICANTS.--The Corporation may require that applicants demonstrate that the use of financial assistance is in compliance with the contractual agreement.

SEC. 625. ELIGIBILITY CRITERIA FOR FINANCIAL ASSISTANCE.

(a) ELIGIBLE ENTITIES.--

(1) IN GENERAL.--To obtain financial assistance from the Corporation, an entity shall--

(A) be a university or other institution of higher education, a nonprofit organization, a

cooperative, or a small business concern; and

(B) file an application with the Regional Director of a Regional Center.

(2) DEFINITIONS.--As used in paragraph (1):

(A) NONPROFIT ORGANIZATION.--The term ``nonprofit organization'' means an organization that is--

(i) described in section 501(c) of the Internal Revenue Code of 1986; and

(ii) exempt from taxation under section 501(a) of such Code.

(B) SMALL BUSINESS CONCERN.--The term ``small business concern'' shall have the same meaning given such term in section 3(a) of the Small Business Act (15 U.S.C. 632(a,) and in implementing rules issued by the Administrator of the Small Business Administration under such section.

(b) APPLICATION.--An application submitted to the Regional Director under subsection (a) shall--

(1) describe the proposal of the entity for the commercialization of a new product consistent with this section, including documentation that such proposal is--

(A) scientifically sound;

(B) technologically feasible; and

(C) marketable;

(2) provide documentation that adequate private

sector funding is not available, but that the applicant has the ability to obtain matching funds from the public or private sectors;

(3) provide documentation that the applicant's own resources, including time and money, have been invested in the project;

(4) provide documentation that the product or process has broad application and has the potential to be commercially viable without continual assistance;

(5) provide documentation that the proposal will be carried out with broad participation by representatives of the sectors described in section 616(d)(2);

(6) provide documentation that the managerial ability or established relationship exists between the applicant and other entities to give the applicant access to private business assistance;

(7) provide assurances of legal compliance by the applicant with the terms and conditions for the receipt of assistance under this subtitle; and

(8) provide assurances that the proposal will result in the creation of new jobs in rural areas.

(c) SELECTION CRITERIA.--

(1) IN GENERAL.--The Board shall give priority to--

(A) applications that create jobs in economically distressed rural areas;

(B) applications that have State or local government financial participation; and

(C) applications that have private financial participation.

(2) ADDITIONAL CRITERIA.--The Board shall establish additional criteria for use in selecting among equivalent applications. Such criteria shall emphasize--

(A) the quantity and quality of jobs that shall be created;

(B) the amount of the financial participation by State or local governments or private entities;

(C) the qualifications of the management to be used in the project;

(D) the level of market demand for the product to be marketed; and

(E) the level of returns to the revolving fund established under section 627.

(d) APPLICATION REVIEW PROCESS.--

(1) IN GENERAL.--A Regional Director shall work in consultation with an Advisory Council to review and evaluate the proposals submitted to the Regional Center.

(2) ADVISORY COUNCIL.--The Advisory Council shall review proposals submitted to the Regional Centers. The Advisory Council shall, by majority vote, make a nonbinding recommendation on the proposal to the Regional

Director.

(3) REGIONAL DIRECTOR.--The Regional Director, on consideration of the Advisory Council's recommendation and any other comments received from interested parties, shall make and submit the Director's recommendation to the Board along with the recommendation of the Advisory Council.

(4) CORPORATE BOARD.--The Board shall, by majority vote, make the final decision on whether and how to provide assistance to the applicant.

(5) CONFIDENTIALITY.--The Board shall establish procedures that shall ensure the confidentiality of applications submitted under this section.

(e) NOTICE OF APPLICATIONS.--The Board shall publish in the Federal Register a notice that it is receiving applications for assistance under this subtitle not later that 30 days prior to the period established for receipt of such applications.

SEC. 626. REPAYMENT OF FINANCIAL ASSISTANCE.

(a) REPAYMENT.--An entity receiving financial assistance under this subtitle shall repay the Corporation in accordance with the contract between the Corporation and the entity.

(b) WAIVERS.--The Board may waive the repayment of financial assistance for such reasonable grounds as the Board may from time to time determine.

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(c) MAXIMUM REPAYMENT TIME LIMIT.--Financial assistance made available under this subtitle may not have a repayment period in excess of 12 years.

SEC. 627. REVOLVING FUND.

(a) ESTABLISHMENT.--There is established a revolving fund to be administered by the Board.

(b) CONTENTS.--Funds received by the Regional Centers under section 626 as a result of any financial assistance made pursuant to this subtitle, shall be converted into and become a part of the revolving fund established under subsection (a).

(c) USE OF FUND.--The revolving fund established under subsection (a) shall be available, as provided in appropriation Acts, to provide financial assistance under sections 624 and 625, and to pay for the costs of operation as provided for in section 615.

(d) CONTRIBUTIONS.--Amounts received from contributions from State tax check-off programs, or other independent sources, may also become part of the revolving fund established under this section. Such amounts may be specified by the donor for any form of financial assistance for a project in a particular region or State.

SEC. 628. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle for each of the fiscal years 1991 through 1999.

AGRICULTURAL RESEARCH COMMERCIALIZATION CORPORATION

EXECUTIVE SUMMARY

MARCH 16, 1989

SECTION 1: SHORT TITLE. This Act is entitled the "Agricultural Research Commercialization Corporation Act of 1989."

SECTION 2: FINDINGS AND PURPOSE. Congress finds that many of the emerging new ideas, products and processes resulting from agricultural research have never been commercialized because of the high initial financing costs and high risk. Congress believes that the careful targeting of financial assistance to entrepreneurs for the commercialization of new industrial uses of agricultural and forestry products will be a cost effective means of redeveloping the rural economy and stabilizing the agricultural sector.

It is the purpose of this Act to lend a hand in the difficult process of commercializing nonfood, nonfeed products and processes using agricultural and forestry crops. It will provide the vital coordination of cooperative development efforts among manufacturers, financiers, universities and private and public laboratories to speed the commercialization of these products and processes. The goals are to strengthen the rural economy; to create jobs, to expand the market for traditional crops and new crops which are suitable for production on family-sized farms; and to enhance U.S. competitiveness in international markets.

SECTION 3: DEFINITIONS. This section defines terms used in this bill, including the term "commercialization" which means all activities related to product commercialization from the development of prototype products or industrial plants to the market development on new industrial uses.

SECTION 4: ESTABLISHMENT OF CORPORATION. An independent, nonprofit corporation is established within the United States Department of Agriculture, entitled the "Agricultural Research Commercialization Corporation" (ARCC). The Corporation shall serve as the hub for 4 to 9 Regional Centers, where its main activities shall be carried out.

SECTION 5: POWERS OF THE CORPORATION. ARCC shall have general corporate powers. As a wholly-owned government corporation, ARCC shall be subject to the more stringent standards of auditing and oversight under the Government Corporate Control Act.

SECTION 6: REGIONAL CENTERS. Each Regional Center shall be located in a different state, which reflects to the extent possible the regional climatic conditions and rural economic stress. States which apply for a Center must demonstrate the ability to develop a partnership between private and public sector and universities to commercialize new industrial products made from agricultural commodities. The location of regional centers shall be competitively awarded based on proposals submitted to the Board of Directors of ARCC.

Regional centers must be located at host institutions, which include universities or other institutions of higher education, Agricultural Research Service laboratories, State Agricultural Experiment Stations, Extension Service facilities, or other organizations which are involved in the development or commercialization of new industrial uses for agricultural commodities, or in rural economic development. In addition, states must provide for the matching of funds provided by the Federal government for administrative costs, which may include in-kind support such as office space, equipment and staff support.

Each Regional Center shall be headed by a Regional Director, selected by the Board, to carry out the activities of the Corporation, who will work in consultation with an Advisory Council appointed by the Board of Directors and a broad network of volunteers available for project review. Each Regional Director shall have a small support staff.

SECTION 7: ACTIVITIES OF THE REGIONAL CENTER. The Regional Centers shall (1) develop a network of scientists, engineers, financiers, business managers, and other specialists to assist in project review; (2) provide business and technical counseling to small businesses to commercialize new industrial uses of agriculture and forestry products; (3) seek out new, nonfood, nonfeed agricultural product ideas which can contribute to rural economic growth; and (4) evaluate and recommend applicants for assistance. The Regional Centers shall coordinate their activities with the Small Business Development Centers.

SECTION 8: CORPORATE BOARD OF DIRECTORS. The Board of Directors shall be composed of nine members appointed by the Secretary, including the Assistant Secretary for Science and Education and the Undersecretary of Agriculture for Small Community and Rural Development. The other Directors shall be members of the community holding full-time jobs in the agricultural, scientific, financial, and managerial sectors and shall serve staggered five-year terms. The Board of Directors shall elect a Chairman.

The Board of Directors shall make the final evaluation of project proposals and determine the type and amount of assistance.

SECTION 9: POWERS AND DUTIES OF THE CORPORATE BOARD. The Board has the authority to delegate to the Regional Centers the bulk of the activities of the Corporation. The Corporation shall adopt bylaws, develop an organizational structure, and hire a limited number of staff members, which may include a General Counsel, Treasurer, and Executive Director, who shall be considered federal employees. The choice of officers and employees shall be nonpartisan.

SECTION 10: COMPENSATION. Board members, except for the Assistant Secretary and the Administrator, shall receive compensation equivalent to the daily prorated amount of Level II of the Executive Schedule, plus reimbursement for reasonable expenses. If absolutely necessary, the Board may, with the Secretary's approval, pay one officer or employee above the federal pay scale.

SECTION 11: FINANCIAL DISCLOSURE AND CONFLICTS OF INTEREST. Members of the Board of Directors and all other officers and employees are subject to the Ethics in Government Act.

A Director is precluded from voting on any matter in which such individual has a financial interest. Directors who violate this rule shall be removed from the Board.

SECTION 12: AUTHORIZATION OF ADMINISTRATIVE EXPENDITURES. Administrative expenses are required to be kept to a minimum in order to make available more money for financial assistance for commercialization projects.

SECTION 13: CRIMINAL SANCTIONS. The Corporation and its Directors, officers and employees are subject to criminal sanctions for releasing proprietary information.

SECTION 14: FINANCIAL ASSISTANCE. The Corporation is authorized to provide low-interest loans, loan guarantees, interest subsidies, repayable grants matched by private, State or local public funds, umbrella bonding and debentures to eligible applicants to commercialize industrial products using agricultural and forestry crops.

The Board may establish a discretionary fund for each Regional Center to be used for activities related to the financial assistance described above. The Regional Directors shall account for expenditures from these funds twice a year.

The Corporation, through the Regional Centers, shall monitor the progress of ongoing projects and provide supportive

business and technical counseling as needed, assisted by the Advisory Council.

SECTION 15: ELIGIBILITY CRITERIA FOR FINANCIAL ASSISTANCE. An applicant may be eligible for financial assistance if such applicant's proposal to commercialize a new, nonfood, nonfeed agricultural product or process is scientifically sound, technologically feasible and marketable. Priority shall be given to proposals which create jobs in economically distressed rural areas, and have financial participation by state or local government or the private sector.

The entities eligible for assistance shall be small businesses as defined under the Small Business Act, universities or other institutions of higher education, nonprofit organizations and cooperatives.

The applicant must show that the proposal has broad application, will create net new jobs in rural areas, and that the applicant's own resources are invested in the project, but that adequate public or private sector funding is not available without ARCC participation. The Corporation shall ensure the confidentiality of proposals.

The Corporation shall establish additional criteria for use when choosing among equivalent applications. These criteria shall emphasis the quantity and quality of jobs created, the level of financial participation by state or local government or private entities, the qualifications of the management, and the level of market demand for the product.

SECTION 16: REPAYMENT OF FINANCIAL ASSISTANCE. A business entity shall repay the financial assistance it receives from the Corporation according to its contract with the Corporation. The Corporation is given great flexibility in negotiating the amount and type of this repayment. The maximum repayment period for financial assistance shall be 12 years. The Board may waive the repayment of financial assistance if necessary.

SECTION 17: REVOLVING FUND. The Corporation is designed to be self-funding. A revolving fund is established to receive sums from the repayment of financial assistance and contributions to the Corporation. Administered by the Board, the fund shall be used to provide financial assistance authorized by this section and pay operational costs.

SECTION 18: AUTHORIZATION OF APPROPRIATIONS. The Corporation is authorized to receive such sums as may be appropriated through fiscal year 1999.

AN AMENDMENT TO
H.R. 3581
OFFERED BY MR. MORRISON

Amendment 1

On page 18, after line 20 insert:

"(V) improve traditional public services provided by local government."

1303

AN AMENDMENT TO
H.R. 3581
OFFERED BY MR. MORRISON

Amendment 2

On page 20, line 2, strike "twenty" and insert "twenty-one."

AN AMENDMENT TO
H.R. 3581
OFFERED BY MR. MORRISON

Amendment 3

On page 20, after line 18, insert:

"(H) one of whom is appointed by a state-wide association of publicly-owned electric utilities;"

On page 20 through 22, reletter "(H)" through "(S)" to "(I)" through "(T)."

AN AMENDMENT TO
H.R. 3581
OFFERED BY MR. MORRISON

Amendment 4

On page 29, after line 25, insert:

"(7) provide the same advice and guidance to municipal electric utilities as is provided to electric and telephone borrowers under this act."

AN AMENDMENT TO
H.R. 3581
OFFERED BY MR. MORRISON

Amendment 9

On page 33, after line 19, insert:

"Loans under paragraph (1) shall not be approved unless:

1) The borrower has secured the approval of the affected local governments, including agreements of the general design of the facility, the proposed operation plan and fee schedules, and that the borrower can demonstrate that the proposed project is consistent with local and regional development plans;

2) the borrower can demonstrate that the water and waste facility will not duplicate any existing facility and that there will be coordination with similar operations in the area; and

3) the borrower can demonstrate that the facilities will comply with federal, state and local laws, including those concerned with zoning regulations, health and sanitation standards, and the control of water pollution."

AN AMENDMENT TO
H.R. 3581
OFFERED BY MR. MORRISON

Amendment 6

On page 45, after line 8, insert:

"(B) any publicly-owned electric utility:"

Relist "(B)" through "(J)" to "(C)" through "(K)."

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HARRIS AMENDMENT TO H.R. 3581
RURAL ECONOMIC DEVELOPMENT ACT OF 1989

AMEND TITLE V:

The Secretary shall ensure that assistance provided under this section does not duplicate services or assistance provided by other federal programs or the private sector.

AMENDMENT TO H.R. 3581

OFFERED BY MR. PENNY

Section 305 (f) is amended by adding after "waste disposal facilities" the words ", except as provided in subsection (g),"

305 (g) The banks for cooperatives are authorized to provide interim construction financing for the purposes of subsection (f) only to the extent that other commercial financing is unavailable, as determined pursuant to regulations issued by the Farm Credit Administration.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, November 15, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 9:35 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of reviewing commodity donation programs for reauthorization in the 1990 farm bill

The following Members were present:

Mr. Hatcher	Mr. Emerson	Mr.
Mr. Staggers	Mr.	Mr.
Mr. Espy	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Allie Devine, Minority Associate Counsel
Julia Paradis, Subcommittee Staff Director
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk
Anita Brown, Staff Assistant

Witnesses:

1. Panel:
Mr. G. Scott Dunn, Acting Administrator, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C.
Acc. by: Mr. George Braley, Acting Associate Administrator, Food and Nutrition Service, USDA

Mr. Daniel D. Haley, Administrator, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.
Acc. by: Mr. Ken Clayton, Deputy Administrator, Agricultural Marketing Service, USDA

Mr. Robert H. Sindt, Assistant Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C.

2. Panel:
Mr. James L. Solomon, Commissioner, South Carolina Department of Social Services, Columbia, South Carolina
Acc. by: Ms. Gwen Kuhns, Executive Assistant, South Carolina Department of Social Services
Mr. William E. Middleton, Deputy Commissioner, South Carolina Department of Social Services

Mr. Robert D. Vessey, National Director, Disaster Services, American Red Cross, Washington, D.C.

3. Panel:
Ms. Foylen L. Bryant, Assistant Staff Director for Food Distribution, Florida Department of Health and Rehabilitative Services, Jacksonville, Florida, on behalf of the National Advisory Council on Commodity Distribution

Mr. B. W. Ray, Director, Food Distribution Division, North Carolina Department of Agriculture, Raleigh, North Carolina, on behalf of the National Association of State Agencies for Food Distribution (NASAFD)
Acc. by: Ms. Patricia Phillips, Washington Representative, NASAFD, McLean, Virginia

Mr. Richard E. Pasco, Director, Legislative Affairs, National Pork Producers Council, Washington, D.C., on behalf of the Commodity Distribution Coalition
Acc. by: Mr. Marshall Matz, Holland and Knight, Washington, D.C.

4. Mr. John W. Harman, Director, Food and Agriculture Issues, Resources, Community, and Economic Development Division, General Accounting Office, Washington, D.C.
Acc. by: Mr. Peter M. Bramble, Audit Manager, GAO
Mr. J. Kenneth McDowell, Evaluator, GAO

U.S. GOVERNMENT PRINTING OFFICE: 1987 75-833 (m)

Wednesday, November 15, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Public Hearing
Reauthorization of commodity
donation programs in 1990
farm bill

Statements Submitted for the Record:

1. Hon. Charles Hatcher, Member of Congress from Georgia

2. Hon. Bill Emerson, Member of Congress from Missouri

Mr. Hatcher, Chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, called the meeting to order for the purpose of reviewing the commodity donation programs to develop a legislative package for inclusion in the 1990 farm bill. Mr. Hatcher made brief opening comments as did Mr. Emerson, the Ranking Minority Member of the Subcommittee.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

Due to the Joint Session of the House to receive Mr. Lech Walesa, Chairman of Solidarnosc, Poland, Members were given permission to submit questions in writing to all witnesses. In addition, the representatives of the General Accounting Office also submitted their presentation to accommodate the Subcommittee's time limitations.

At 10:55 a.m. the meeting was adjourned, to reconvene on Thursday, November 16, to hear additional witnesses discuss the commodity donation programs.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Wednesday, November 15, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 10:05 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of Reviewing Timber Harvesting Systems and Nontimber Resource Management

The following Members were present:

Mr. Volkmer	Mr. Morrison	Mr.
Mr. Olin	Mr. Smith	Mr.
Mr. Stallings	Mr. Herger	Mr.
Mr. Jontz	Mr.	Mr.
Mr. Johnson	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Tim DeCoster, Subcommittee Staff Director
Allison Biggs, Minority Consultant
Grace McGovern, Staff Assistant

Witnesses:

1. Mr. George M. Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C.

2. Panel:

Mr. Gerald Rose, Minnesota State Forester, St. Paul, Minnesota representing the National Association of State Foresters

Mr. Gerald J. Gray, Director of Resource Policy, American Forestry Association, Washington, D.C.

3. Panel:

Mr. Brock Evans, Vice President for National Issues, National Audubon Society, Washington, D.C.

Ms. Frances A. Hunt, Forestry Resource Specialist, National Wildlife Federation, Washington, D.C.

Dr. D. Bruce Means, President, Coastal Plains Institute and Adjunct Professor of Biological Science, Florida State University, Tallahassee, Florida

Mr. Edward C. Fritz, Chair, Forest Task Force, Texas Committee on Natural Resources, Dallas, Texas

4. Panel:

Mr. John Heissenbuttel, Manager of Policy and Research, American Forest Council, Washington, D.C.

Mr. Mark Golitz, Resource Forester, Walter H. Weaber & Sons, Lebanon, Pennsylvania

Mr. William Snyder, Chief Forester, Fibreboard Corporation, Standard, California

Mr. Bruce Beckett, Regional Manager, Northwest Forestry Association, Portland, Oregon

U.S. GOVERNMENT PRINTING OFFICE: 1987 73-633 (m)

Wednesday, November 15, 1989
Subcommittee on Forests, Family
Farms, and Energy
Public Hearing
Review of Timber Harvesting Systems
and Nontimber Resource Management

Chairman Volkmer called the meeting to order for the purpose of reviewing timber harvesting systems and nontimber resource management. Mr. Volkmer, Mr. Morrison, the Ranking Minority Member, and Mr. Smith made opening statements.

Witnesses listed on page 2 of these minutes proceeded with their testimony and were questioned by the Members of the Subcommittee. Mr. Volkmer left to attend a Joint Session at which time Mr. Olin chaired. The Members recessed for a vote at 1:15 p.m.

The meeting adjourned at 2:25 p.m. subject to the call of the Chair.

Grace McGovern

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, November 16, 1989

(Sub) Committee: Department Operations, Research, and Foreign Agriculture; Tobacco and Peanuts; and Wheat, Soybeans, and Feed Grains
Public Hearing
met at 9:35 a.m. o'clock, in Room 1300 Longworth House Office Building for the purpose of reviewing recent audits of the Export Enhancement Program, Targeted Export Assistance Program, and GSM 102/103 Guaranteed Credit Programs.

The following Members were present:

DORFA	T & P	WSFG
Mr. Brown	Mr. Rose	Mr. Glickman
Mr. Rose	Mr. Hatcher	Mr. Johnson
Mr. Panetta	Mr. English	Mr. English
Mr. Glickman	Mr. Tallon	Mr. Volkmer
Mr. Hatcher	Mr. Hopkins	Mr. Penny
Mr. Olin	Mr. Grant	Mr. Nagle
Mr. Volkmer	Mr.	Mr. Jontz
Mr. Jontz	Mr.	Mr. Campbell
Mr. Roberts	Mr.	Ms. Long
Mr. Grandy	Mr.	Mr. Marlenee
Mr. Walsh	Mr.	Mr. Roberts
Mr.	Mr.	Mr. Smith
Mr.	Mr.	Mr. Schuette
		Mr. Grandy
		Mr.
		Mr.
		Mr.

Staff present:

Joe Muldoon, Majority Assistant Counsel
William A. Stiles, Jr., Subcommittee Staff Director
John J. Aguirre, Minority Consultant
Joan Teague Rose, Staff Assistant
Heidi Pender, Subcommittee Counsel
Richard Jones, Minority Consultant
Greg Frazier, Subcommittee Staff Director
Anne C. Keys, Staff Assistant
Anita R. Brown, Staff Assistant
Jim Davis, Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

1. Mr. James R. Ebbitt, Assistant Inspector General for Audit, Office of Inspector General, U.S. Department of Agriculture, Washington, DC
   accompanied by:
   Mr. Craig Beauchamp, Assistant Inspector General for Investigation, Office of Inspector General, USDA

   Mr. Richard Long, Deputy Assistant Inspector General for Audit, Office of Inspector General, USDA

2. Mr. Allan I. Mendelowitz, Director for Trade, Energy, and Finance, National Security and International Affairs Division, U.S. General Accounting Office, Washington, DC
   accompanied by:
   Mr. Scott Einhorn, Project Manager, GSM 102/103 Guaranteed Credit Programs Audit, GAO

   Ms. Julie M. Gerkens, Project Manager, Export Enhancement Program Audit, GAO

   Ms. Janet Pietrovito, Targeted Export Assistance Program Audit, GAO

U.S. GOVERNMENT PRINTING OFFICE 1987 75-833 (FY)

Thursday, November 16, 1989
Department Operations, Research, and Foreign Agriculture Subcommittee; Tobacco and Peanuts Subcommittee; and Wheat, Soybeans, and Feed Grains Subcommittee
Public Hearing
To review recent audits by USDA's Office of Inspector General

The hearing was called to order by Tobacco and Peanuts Subcommittee Chairman Charlie Rose. Several Members made brief opening statements, after which Congressman Brown, chairman of the Department Operations, Research, and Foreign Agriculture Subcommittee, welcomed the witnesses listed on page two of these minutes for their prepared statements. Following their presentations, the witnesses were questioned by the Members.

At the conclusion of the hearing, Chairman Brown announced that the record would be held open for a short time so that Members would have the opportunity to submit additional questions to the witnesses.

The meeting was adjourned at 12:07 p.m., subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, November 16, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Hearing

met at 9:40 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of continuing to review the reauthorization of the Commodity Donation Programs in the 1990 farm bill

The following Members were present:

Mr. Hatcher
Mr. Emerson

Members Also Present:

Mr. Schuette

Staff present:

Julia Paradis, Subcommittee Staff Director
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk
Joe Dugan, Assistant Press Secretary

Witnesses:

1. Panel:
Ms. Pamela P. McCardless, Administrator, Nutrition Services, Office of Public Health, Louisiana Department of Health and Hospitals, New Orleans, Louisiana

Ms. Eleanor M. Josaitis, Associate Director, Focus: HOPE, Detroit, Michigan

Mr. Gregory Ben Johnson, Director, Office of the Social Apostolate, Archdiocese of New Orleans, New Orleans, Louisiana

2. Panel:
Mr. Maurice "Mickey" Weiss, Vice President, Wholesale Produce Market Charitable Distribution Center, Los Angeles, California

Ms. Winifred Nazarko, Executive Director, Oregon Food Bank, Portland, Oregon

Mr. Paul Magno, Jr., Zacchaeus Kitchen, Washington, D.C.

Mr. Philip R. Warth, Jr., President and Chief Executive Officer, Second Harvest National Food Bank Network, Chicago, Illinois

Ms. Mary Jo Henny, State Coordinator, Arizona Department of Economic Security, Phoenix, Arizona, on behalf of the National Association of State Agencies for Food Distribution (NASAFD)

3. Panel:
Ms. Carla Jutson, Executive Director, Meals on Wheels, Inc., Fort Worth, Texas, on behalf of the National Association of Meal Programs
Acc. by: Ms. Beth Landon, Deputy Director, Central Arkansas Area Agency on Aging, North Little Rock, Arkansas

Mr. Michael J. Giuffrida, Administrative Director, National Association of Meal Programs

Ms. Gail Martin, Assistant Administrative Director, National Association of Meal Programs

Mr. John W. Bode, Olsson, Frank and Weeda, Washington, D.C., on behalf of the National Frozen Pizza Institute

Statements Submitted for the Record:

1. Hon. Bob Traxler, Member of Congress from Michigan

U.S. GOVERNMENT PRINTING OFFICE: 1987 71-833 (#1)

Thursday, November 16, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Public Hearing
Reauthorization of commodity
donation programs in 1990
farm bill

Mr. Hatcher, Chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, called the meeting to order for the purpose of continuing to review the commodity donation programs to develop a legislative package for inclusion in the 1990 farm bill.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee. The following special introduction was made: Mr. Schuette introduced Ms. Josaitis.

At 11:25 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, November 16, 1989

(Sub) Committee: Department Operations, Research, & Foreign Agriculture, Public Hearing

met at 2:20 p.m. o'clock, in Room 1300 Longworth House Office Building for the purpose of hearing testimony on H.R. 500, by Mr. Hochbrueckner, the Recyclable Materials Science and Technology Development Act of 1989.

The following Members were present:

		ALSO PRESENT
Mr. Brown	Mr. Walsh	Mr. Hochbrueckner
Mr. Stenholm	Mr.	Mr.
Mr. Olin	Mr.	Mr.
Mr. Jontz	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:
William A. Stiles, Jr., Subcommittee Staff Director
John J. Aguirre, Minority Consultant
Sondra Feldstein, Minority Staff Assistant
Jim Davis, Press Secretary
Francie Monaghan, Staff Assistant

Witnesses:

1. Hon. George J. Hochbrueckner, Member of Congress from NY

2. Panel
Mr. Bruce Weddle, Acting Director, Municipal Solid Waste Program, Environmental Protection Agency, Washington, DC
accompanied by:
Mr. Bill Diamond, Director, Criteria and Standards Division, Office of Water, Environmental Protection Agency

Dr. Rufus L. Chaney, Research Agronomist, Agricultural Research Service, U.S. Department of Agriculture, Washington, DC
accompanied by:
Dr. W. Doral Kemper, National Program Leader for Soils Research, Agricultural Research Service, USDA

3. Panel
Ms. Nora Goldstein, Executive Editor, Biocycle Magazine, Emmaus, PA.

Mr. N.C. Vasuki, P.E., General Manager, Delaware Solid Waste Authority, Dover, DE.

Mr. Michael H. Simpson, Consultant, Energy Systems Research Group, Boston, MA.

U.S. GOVERNMENT PRINTING OFFICE 1987 75-833 (m)

Thursday, November 16, 1989
Department Operations, Research, and Foreign Agriculture Subcommittee
Public Hearing
H.R. 500, "Recyclable Materials Science and Technology Development Act of 1989".

Chairman Brown called the meeting to order for the purpose of hearing testimony on Section 5 of H.R. 500, a proposal to expand USDA's efforts to develop solid waste composting technology. After brief opening remarks by the Members present, Mr. Brown recognized the witnesses listed on page 2 of these minutes for their prepared statements.

During the proceedings, the Subcommittee recessed at 3:00 p.m., to enable Members to respond to a vote on the floor of the House of Representatives. At 4:20 p.m., the meeting was adjourned, subject to the call of the Chair.

Francie Monaghan
Staff Assistant

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Thursday, November 16, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Business Meeting

met at 2:25 p.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of considering H.R. 3664, the Omnibus Agricultural Commodity Promotion and Research Act

The following Members were present:

Mr. Hatcher
Mr. Panetta
Mr. Glickman
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Mr. Emerson
Mr. Lewis
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Members Also Present:

Mr. Stallings
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.
Mr.

Staff present:
Dan Brinza, Counsel
Fred Clark, Majority Associate Counsel
John Hogan, Minority Counsel
Allie Devine, Associate Minority Counsel
Julia Paradis, Subcommittee Staff Director
Lynn Gallagher, Minority Consultant
Glenda Temple, Clerk
Jim Lyons, Staff Assistant
Anita Brown, Staff Assistant

Witnesses:

None

U.S. GOVERNMENT PRINTING OFFICE: 1967 75-833 (m)

Thursday, November 16, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Business Meeting
Omnibus Agricultural Commodity
Promotion and Research Act
H.R. 3664

Action Taken:

-- Without objection Hatcher substitute amendment to Potato Research and Promotion Act Amendments agreed to.

-- By roll call vote (9 yeas-0 nays) H.R. 3664, as amended, ordered reported to the full Committee.

Chairman Hatcher called the meeting to order for the purpose of considering H.R. 3664, the Omnibus Agricultural Commodity Promotion and Research Act of 1989. (See attached copy of bill and summaries.) Mr. Hatcher explained the provisions of the legislation.

Messrs. Hatcher, Emerson, Panetta, Stallings, Glickman, and Lewis submitted statements for the record on the legislation before the Subcommittee.

Following his explanation, Mr. Hatcher declared the bill open for amendment at any point, and offered the attached substitute amendment to the potato research and promotion title of the measure. Following the Chairman's explanation the substitute amendment was approved without objection.

Mr. Emerson moved that H.R. 3664, as amended, be ordered favorably reported to the full Committee with the recommendation that it do pass. The Chair asked the clerk to call the roll and the vote follows:

Y E A S

1. Mr. Panetta
2. Mr. Glickman
3. Mr. Emerson
4. Mr. Lewis
5. Mr. Hatcher
6. Mr. Staggers (proxy to Mr. Hatcher)
7. Mr. Espy (proxy to Mr. Hatcher)
8. Mr. Sarpalius (proxy to Mr. Hatcher)
9. Mr. Herger (proxy to Mr. Emerson)

N A Y S

None

Thursday, November 16, 1989
Subcommittee on Domestic
Marketing, Consumer
Relations, and Nutrition
Business Meeting
Omnibus Agricultural Commodity
Promotion and Research Act
H.R. 3664

Thus, by a roll call vote of 9 yeas-0 nays, H.R. 3664, as amended was ordered reported to the full Committee in the presence of a quorum (5 Members present and voting). Staff was given permission to make any necessary clerical and technical changes in the bill prior to full Committee consideration.

At 3:00 p.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

101st CONGRESS
1st SESSION

H.R. 3664

(Original signature of Member)

Insert title here

The Omnibus Agricultural Commodity Promotion and Research Act of 1989

IN THE HOUSE OF REPRESENTATIVES

November 15 19 89

Insert sponsor's name

Mr. Hatcher (for himself, Mr. Emerson, Mr. Panetta, Mr. Fascell, Mr. Lewis of Florida, Mr. Stallings, Mr. Schulze, Mr. Espy,

A BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Omnibus Agricultural Commodity Promotion and Research Act of 1989".

(b) Table of Contents.--The table of contents is as follows:

TITLE I--PECAN PROMOTION

SEC. 101. SHORT TITLE.
SEC. 102. FINDINGS AND DECLARATION OF POLICY.
SEC. 103. DEFINITIONS.
SEC. 104. ISSUANCE OF ORDERS.
SEC. 105. REGULATIONS.
SEC. 106. REQUIRED TERMS IN ORDERS.
SEC. 107. PERMISSIVE TERMS IN ORDERS.
SEC. 108. ASSESSMENTS.
SEC. 109. PETITION AND REVIEW.
SEC. 110. ENFORCEMENT.
SEC. 111. INVESTIGATIONS AND POWER TO SUBPOENA.
SEC. 112. REQUIREMENT OF REFERENDUM.
SEC. 113. SUSPENSION OR TERMINATION OF ORDER.
SEC. 114. AMENDMENTS.
SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

TITLE II--MUSHROOMS

SEC. 201. SHORT TITLE.
SEC. 202. FINDINGS AND DECLARATION OF POLICY.
SEC. 203. DEFINITIONS
SEC. 204. ISSUANCE OF ORDERS.
SEC. 205. REQUIRED TERMS IN ORDERS.
SEC. 206. REFERENDA.
SEC. 207. PETITION AND REVIEW.
SEC. 208. ENFORCEMENT.
SEC. 209. INVESTIGATIONS AND POWER TO SUBPOENA.
SEC. 210. SAVINGS PROVISION.
SEC. 211. SUSPENSION OR TERMINATION OF ORDERS.
SEC. 212. AMENDMENTS.
SEC. 213. AUTHORIZATION OF APPROPRIATIONS.
SEC. 214. REGULATIONS.

TITLE III--POTATOES

SEC. 301. SHORT TITLE.
SEC. 302. FINDINGS AND DECLARATION OF POLICY.
SEC. 303. DEFINITIONS.
SEC. 304. AUTHORITY TO ISSUE PLANS.
SEC. 305. ALTERNATIVE PLAN.
SEC. 306. ASSESSMENTS.
SEC. 307. REFERENDUM REQUIREMENT FOR ALTERNATIVE PLAN.

TITLE IV--LIMES

SEC. 401. SHORT TITLE.
SEC. 402. FINDINGS, PURPOSES, AND LIMITATIONS.
SEC. 403. DEFINITIONS.
SEC. 404. ISSUANCE OF ORDERS.
SEC. 405. REQUIRED TERMS IN ORDERS.
SEC. 406. PERMISSIVE TERMS IN ORDERS.
SEC. 407. PETITION AND REVIEW.
SEC. 408. ENFORCEMENT.
SEC. 409. INVESTIGATIONS AND POWER TO SUBPOENA.
SEC. 410. INITIAL REFERENDUM.
SEC. 411. SUSPENSION AND TERMINATION.
SEC. 412. AMENDMENTS.
SEC. 413. AUTHORIZATION OF APPROPRIATIONS.
SEC. 414 REGULATIONS.

TITLE I--PECAN PROMOTION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Pecan Promotion and Research Act of 1989''.

SEC. 102. FINDINGS AND DECLARATION OF POLICY.

(a) Findings.--Congress finds that--

(1) pecans are a native American nut that is an important food, and is a valuable part of the human diet;

(2) the production of pecans plays a significant role in the economy of the United States in that pecans are produced by thousands of pecan producers, shelled and processed by numerous shellers and processors, and pecans produced in the United States are consumed by millions of people throughout the United States and foreign countries;

(3) pecans must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of pecans;

(4) the maintenance and expansion of existing markets and

development of new markets for pecans are vital to the welfare of pecan producers and those concerned with marketing, using, and producing pecans, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of pecans;

(5) there exist established State organizations conducting pecan promotion, research, and consumer education programs that are invaluable to the efforts of promoting the consumption of pecans;

(6) the cooperative development, financing, and implementation of a coordinated national program of pecan promotion, research, and consumer information are necessary to maintain and expand existing markets and develop new markets for pecans; and

(7) pecans move in interstate and foreign commerce, and pecans that do not move in such channels of commerce directly burden or affect interstate commerce in pecans.

(b) Policy.--It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this title, of an orderly procedure for developing, financing (through adequate assessments on pecans produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, and consumer information designed to--

(1) strengthen the pecan industry's position in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for pecans; and

(3) develop new markets and uses for pecans.

(c) Construction.--Nothing in this title may be construed to provide for the control of production or otherwise limit the right of any person to produce pecans.

SEC. 103. DEFINITIONS.

As used in this title:

(1) Board.--The term ''Board'' means the Pecan Marketing Board established in section 6(b).

(2) Commerce.--The term ''commerce'' means interstate, foreign, or intrastate commerce.

(3) Conflict of interest.--The term ''conflict of interest'' means a situation in which a member or director has a direct or indirect financial interest in a corporation, partnership, sole proprietorship or joint venture dealing directly or indirectly with the Board.

(4) Department.--The term ''Department'' means the Department of Agriculture.

(5) District.--The term ''district'' means a geographical area of the United States, as determined by the Board and approved by the Secretary, in which there is produced approximately one-fourth of the volume of pecans produced in the United States.

(6) First handler.--The term ''first handler'' means the first person who buys or takes possession of pecans from a

grower for marketing. If a grower markets pecans directly to consumers, such grower shall be considered the first handler with respect to pecans grown by such grower.

(7) Grower.--The term ''grower'' means any person engaged in the production and sale of pecans in the United States who owns, or who shares the ownership and risk of loss of, such pecans.

(8) Grower-sheller.--The term ''grower- sheller'' means a person who--

(A) shells pecans, or has pecans shelled for such person, in the continental United States; and

(B) during the immediately previous year, grew 50 percent or more of the pecans such person shelled or had shelled for such person.

(9) Handle.--The term ''handle'' means receipt of in-shell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

(10) Importer.--The term ''importer'' means any person who imports pecans from outside of the United States for sale in the United States.

(11) In-shell pecan.--The term ''in-shell pecan'' means a pecan that has a shell that has not been removed.

(12) To Market.--The term ''to market'' means to sell or offer to dispose of pecans in any channel of commerce.

(13) Marketing year.--The term ''marketing year'' means the 12-month period from October 1 through September 30 or such

other period of the time as may be recommended by the Board and established by the Secretary.

(14) Member.--The term ''member'' means a member of the Board.

(15) Order.--The term ''order'' means an order issued under section 4.

(16) Pecan.--The term ''pecan'' means the nut of the pecan tree carya illinoensis.

(17) Person.--The term ''person'' has the meaning given such term in section 1 of title 1 of the United States Code.

(18) Promotion.--The term ''promotion'' means any action taken by the Board, pursuant to this title, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

(19) Research.--The term ''research'' means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

(20) Secretary.--The term ''Secretary'' means the Secretary of Agriculture.

(21) Shell.--The term ''shell'' means to remove the shell from an inshell pecan.

(22) Shelled pecan.--The term ''shelled pecan'' means a pecan kernel, or portion of a kernel, after the pecan shell

has been removed.

(23) Sheller.--The term ''sheller'' means any person who--

(A) shells pecans or has pecans shelled for the account of such person; and

(B) during the immediately previous year, purchased more than 50 percent of the pecans such person shelled or had shelled for such account.

(24) State.--The term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(25) United States.--The term ''United States'' means collectively the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 104. ISSUANCE OF ORDERS.

(a) In General.--To effectuate the declared policy of section 102(b), the Secretary shall, subject to this title, issue and from time to time amend, orders applicable to growers, grower-shellers, shellers, first handlers, and importers of pecans. Any such order shall be national in scope. Not more than one order shall be in effect under this title at any one time.

(b) Procedure.--

(1) Proposal for issuance of order.--The Secretary may propose the issuance of an order under this title, or an association of pecan growers or grower-shellers or any other

person that will be affected by this title may request the issuance of, and submit a proposal for, such an order.

(2) Proposed order.--Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order.--After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this title.

(4) Effective date of order.--Such order shall be issued and become effective not later than 120 days following publication of the proposed order.

(c) Amendments.--The Secretary, from time to time, may amend any order issued under this section, consistent with the requirement of section 114.

SEC. 105. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title.

SEC. 106. REQUIRED TERMS IN ORDERS.

(a) In General.--Each order issued under this title shall contain the terms and conditions prescribed in this section.

(b) Pecan Marketing Board.--

(1) Establishment.--The order shall establish a Pecan Marketing Board to carry out the program referred to in section 102(b).

(2) Service to entire industry.--The Board shall carry out programs and projects that will provide maximum benefit to the pecan industry in all parts of the United States and only generically promote pecans.

(3) Board membership.--The Board shall consist of 15 members, including--

(A) eight members who are growers;

(B) four members who are shellers;

(C) one member who is a first handler and who derives over 50 percent of the member's gross income from buying and selling pecans;

(D) one member who is an importer of pecans into the United States, nominated by the Board;

(E) one member representing the general public, appointed by the Board; and

(F) at the option of the Board, a consultant or advisor representing the views of pecan producers in a country other than the United States who may be chosen to attend Board functions as a nonvoting member.

(4) Representation of members.--

(A) Grower representatives.--Of the growers referred to in paragraph (3)(A), two members shall be from each

district.

(B) Sheller representatives.--Of the shellers referred to in paragraph (3)(B)--

(i) two members shall be selected from among shellers whose place of residence is east of the Mississippi River; and

(ii) two members shall be selected from among shellers whose place of residence is west of the Mississippi River.

(C) First handler representative.--The first handler representative on the Board referred to in paragraph (3)(C) shall be selected from among first handlers whose place of residence is in a district.

(D) Importer representative.--The importer representative on the Board referred to in paragraph (3)(D) shall be an individual who imports pecans into the United States.

(E) Public representative.--The public representative on the Board referred to in paragraph (3)(E) shall not be a grower, grower-sheller, sheller, or first handler.

(5) Alternate for each member.--Each member of the Board shall have an alternate with the same qualifications as the member such alternate would replace.

(6) Limitation on state residence.--There shall be no more than one member from each State in each district, except that the State of Georgia may have two growers from such State

representing the district that it is in.

(7) Modifying board membership.--In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall--

(A) review the geographic distribution of pecan production throughout the United States and the volume of imported pecans; and

(B) if warranted, recommend to the Secretary that the Secretary reapportion a district in order to reflect the geographic distribution of pecan production and the quantity of imported pecans.

(8) Selection process for members.--

(A) Publicity.--The Board shall give reasonable publicity to the industry for nomination of persons interested in being nominated for Board membership.

(B) Eligibility.--Each grower, sheller, first handler, and importer shall be eligible to vote for members who represent that class of members on the Board.

(C) Selection of nominees.--Each person referred to in subparagraph (B) shall have one vote. The two eligible candidates receiving the largest number of votes cast for each Board position for each class of members shall be the nominees for such position.

(D) Certification.--Except for the establishment of the initial Board, the nominations made under subparagraph (C) shall be certified by the Board and

submitted to the Secretary no later than May 1 preceding the commencement of the term of office for Board membership, as established in paragraph (9).

(E) Appointment.--To each vacant Board position, the Secretary shall appoint 1 individual from among the nominees certified and submitted under subparagraph (D).

(F) Rejection of nominees.--The Secretary may reject any nominee submitted under subparagraph (D). If there are insufficient nominees from which to appoint members to the Board as a result of the Secretary's rejecting such nominees, additional nominees shall be submitted to the Secretary in the same manner.

(G) Initial board.--The Secretary shall establish an initial Board from among nominations solicited by the Secretary. For the purpose of obtaining nominations for the initial Board, the Secretary shall perform the functions of the Board under this subsection as the Secretary determines necessary and appropriate.

(9) Terms of office.--

(A) In general.--The members of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board established under paragraph (8)(G) shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) Termination of terms.--Notwithstanding subparagraph (C), each member shall continue to serve until a

successor is appointed by the Secretary.

(C) Limitation on terms.--No individual shall serve more than 2 consecutive 3-year terms as a member.

(D) Vacancies.--

(i) Submitting nominations.--To fill any vacancy created by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall request that at least 2 eligible nominations for a successor for each such vacancy be submitted by the Board in the manner provided in paragraph (8).

(ii) Lack of nominations.--If at least 2 eligible nominations are not submitted under clause (i), the Secretary shall determine the manner of submission of nominations for the vacancy.

(10) Compensation.--A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) Powers and Duties of the Board.--The order shall define the powers and duties of the Board, which shall include the power and duty--

(1) to administer the order in accordance with its terms and conditions;

(2) to make regulations to effectuate the terms and conditions of the order;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary and to determine the compensation and define the duties of such persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal period, a recommended rate of assessment under section 108, and a fiscal period budget of the anticipated expenses in the administration of the order, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, subject to subsection (e), to develop and carry out programs or projects of research and development;

(9) to carry out research and development, promotion, and to pay the costs of such projects with assessments collected pursuant to section 108;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working

committees comprised of growers, grower-shellers, first handlers, and the public to assist in the development of research and promotion programs for pecans;

(12) to refrain from engaging in any action that would be a conflict of interest or any action undertaken for the purpose of influencing any legislation or governmental action, other than recommending to the Secretary amendments to the order;

(13) to not engage in any advertising that may be false or misleading;

(14) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this title, only in--

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States,

except that income from any such invested funds may be used for any purpose for which the invested funds may be used;

(15) to receive, investigate, and report to the Secretary complaints of violations of the order;

(16) to furnish the Secretary with such information as the Secretary may request;

(17) to recommend to the Secretary amendments to the order; and

(18) to develop and recommend to the Secretary for approval such rules and regulations as may be necessary for the development and execution of programs or projects to carry out the order.

(d) Programs and Budgets.--

(1) Submission to secretary.--The order shall provide that the Board shall submit to the Secretary for approval any program or project of promotion, research, consumer information, or industry information.

(2) Budgets.--The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of such fiscal year, to submit to the Secretary for approval budgets of its anticipated expenses (including reimbursements under subsection (b)(10) and disbursements in the implementation of the order, including projected costs of promotion, research, development, consumer information, and industry information programs and projects.

(3) Incurring expenses.--The Board may incur such expenses for the research or promotion of pecans, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred

by the Department.

(4) Paying expenses.--The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 108 or funds borrowed pursuant to paragraph (5).

(5) Authority to borrow.--In order to meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(6) Limitation on spending.--Effective on the date that is 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 20 percent of the assessments collected under section 10 for administration of the Board.

(e) Contracts and Agreements.--

(1) In general.--To ensure efficient use of funds, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of plans or projects of pecan promotion, research, consumer information, or industry information, including contracts with grower and grower-sheller organizations, and for the payment of the cost thereof with funds received by the Board under the order.

(2) Requirements.--Any such contract or agreement shall provide that--

(A) the contracting party shall develop and submit to

the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) Grower and grower-sheller organizations.--The order shall provide that the Board may contract with grower and grower-sheller organizations for any other services. Any such contract shall include provisions comparable to those required by paragraph (2).

(f) Books and Records of Board.--

(1) In general.--The order shall require the Board to--

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) Audits.--The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal

year, and a report of such audit to be submitted to the Secretary.

(g) Prohibition.--No funds received by the Board under this title shall in any manner be used for the purpose of influencing legislation or governmental action, other than recommending to the Secretary amendments to the order.

(h) Books and Records.--

(1) In general.--The order shall require that each first handler, grower-sheller, or importer shall--

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this title; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this title, including such records as are necessary to verify any required reports.

(2) Time requirement.--The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of such records.

(3) Other information.--The Secretary shall authorize the use under this title of information regarding first handlers, grower-shellers, and importers that may be accumulated under a law or regulation other than this title or regulations under this title.

(4) Confidentiality.--

(A) In general.--Except as provided in subparagraph (B), all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) Disclosure.--Information referred to in subparagraph (A) may be disclosed to the public only if--

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this title.

(C) Misconduct.--Any disclosure of confidential information in violation of subparagraph (A) by any Board member or employee of the Board, except as required by other law or allowed under subparagraph (B), shall be considered a violation of this title.

(D) General statements.--Nothing in this paragraph shall prohibit the issuance of general statements based on reports of a number of first-handlers, grower-shellers, or importers subject to the order if such statements do not identify the information furnished

by any person.

(5) Availability of information.--

(A) Exception.--Except as provided in section 112, information obtained under this title may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) Penalty.--Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

(6) Withholding information.--Nothing in this subsection shall authorize the Secretary to withhold information from a committee or subcommittee of Congress.

(i) Other Terms and Conditions.--The order also shall contain such terms and conditions, not inconsistent with this title, as determined necessary by the Secretary to effectuate this title.

SEC. 107. PERMISSIVE TERMS IN ORDERS.

(a) In General.--An order issued pursuant to this title may contain one or more of the terms and conditions contained in this section.

(b) Exemptions.--The order may provide authority to exempt

from the order pecans used for nonfood uses, and authority for the Board to require satisfactory safeguards against improper uses of such exemptions.

(c) Different Payment and Reporting Schedules.--The order may provide authority to designate different payment and reporting schedules for growers, grower-shellers, shellers, and importers to recognize differences in marketing practices and procedures utilized in different production areas.

(d) Promotion.--The order may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the promotion of pecans and for the disbursement of necessary funds for such purposes, except that--

(1) any such program or project shall be directed toward increasing the general demand for pecans; and

(2) such promotional activities shall comply with other restrictions on the use of funds that are established under this title.

(e) Research and Development.--The order may provide for establishing and carrying on research and development projects and studies to the end that the marketing and utilization of pecans may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) Reserve Funds.--The order may provide authority to accumulate reserve funds from assessments collected pursuant to this title, to permit an effective and continuous coordinated program of research, development, and promotion in years when the

production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for the operation of the order for 2 years.

(g) Foreign Markets.--The order may provide authority to use funds collected under this title, with the approval of the Secretary, for the development and expansion of pecan sales in foreign markets.

(h) Other Terms.--The order may contain such other terms and conditions incidental to and not inconsistent with the terms and conditions specified in this title that are necessary to effectuate the provisions of the order.

SEC. 108. ASSESSMENTS.

(a) In General.--During the effective period of an order issued pursuant to this title, assessments shall be--

(1) levied on all pecans produced in, and all pecans imported into, the United States and marketed; and

(2) deducted from the payment made to a grower for all pecans sold to a first handler.

(b) Limitation on Assessments.--No more than one assessment may be assessed under subsection (a) on a first handler or importer, for any lot of pecans handled.

(c) Remitting Assessments.--

(1) In general.--Assessments required under subsection (a) shall be remitted to the Board by--

(A) a first handler; and

(B) an importer.

(2) Times to remit assessment.--

(A) First handlers.--Each first handler who is not a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board no later than the last day of the month following the month that the pecans being assessed were purchased or marketed by such first handler.

(B) Grower-shellers.--Each first handler who is a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on March 31, June 30, and September 30, or such dates as may be recommended by the Board and approved by the Secretary, during the fiscal year that the pecans being assessed were harvested.

(C) Importers.--Importers of pecans into the United States shall pay the assessment at the time the pecans enter the United States and shall remit such assessment to the Board.

(d) Assessment Rate.--

(1) In general.--Except as provided in paragraph (2), assessment rates shall be recommended by the Board and approved by the Secretary, except that the maximum assessment shall not exceed--

(A) during the period commencing on the effective date

of the issuance of the order and ending on the date the referendum is conducted under section 112(a), one-half cent per pound for in-shell pecans as determined by the Board and approved by the Secretary; and

(B) after such period, 2 cents per pound for in-shell pecans.

(2) Adjusting rate for out-of-shell pecans.--The rate of assessment of shelled pecans shall be twice the rate established for in-shell pecans pursuant to paragraph (1).

(3) Special state assessment.--Notwithstanding any other provision of this title, with the approval of the Secretary and if authorized by State law and requested by such State, a one-quarter cent special assessment shall be remitted to the Board for the purpose of utilizing such funds by a State pecan marketing board for research projects to promote pecans pursuant to State law. The Board shall collect such assessments and upon receipt of such assessments shall remit such assessments to the State, within a time period mutually agreed upon between the State and the Board, and approved by the Secretary. In the collection of such State assessments, neither the Board nor the Secretary shall in any manner enforce the collection or remittance of any such payment by producers of such State assessments or investigate nonpayment of such State assessments, except to provide to a State the names of growers from whom such assessments were collected and the respective amounts of assessments collected. The

Secretary is authorized to make such regulations as may be necessary to carry out the provisions of this section.

(e) Late-Payment Charge.--

(1) In general.--There shall be a late-payment charge imposed on any person who fails to remit, on or before the due date established by the Board under subsection (c)(2), to the Board the total amount for which such person is liable.

(2) Amount of charge.--The amount of the late-payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) Refund of Assessments From Escrow Account.--

(1) Establishment of escrow account.--During the period beginning on the effective date of an order first issued under section 104 after enactment of this title and ending on the date the referendum is conducted under section 112(a), the Board shall--

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (2).

(2) Placement of funds in account.--The Board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(3) Right to receive refund.--Subject to paragraphs (4),

(5), and (6), any grower, grower-sheller, or importer shall have the right to demand and receive from the Board a refund of assessments paid by or on behalf of such grower, grower-sheller, or importer during the period referred to in paragraph (1) if--

(A) such grower, grower-sheller, or importer is required to pay such assessments;

(B) such grower, grower-sheller, or importer does not support the program established under this title; and

(C) the order is not approved pursuant to the referendum conducted under section 112(a).

(4) Form of demand.--Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(5) Making of refund.--Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

(6) Proration.--If--

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible growers, grower-shellers, or importers; and

(B) the order is not approved pursuant to the referendum conducted under section 112(a);

the Board shall prorate the amount of such refunds among

all eligible growers, grower-shellers, and importers who demand such refund.

(7) Program approved.--If the order is approved pursuant to the referendum conducted under section 112(a), all funds in the escrow account shall be returned to the Board for use by the Board.

SEC. 109. PETITION AND REVIEW.

(a) Petition.--

(1) In general.--A person subject to an order issued under this title may file with the Secretary a petition--

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings.--The petitioner shall be given the opportunity for a hearing on the petition, on the record and in accordance with regulations issued by the Secretary.

(3) Ruling.--After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) Review.--

(1) Commencement of action.--The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is

filed within 20 days after the date of the entry of such ruling.

(2) Process.--Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary, under such regulations as the Secretary may prescribe.

(3) Remands.--If the court determines that such ruling is not in accordance with law, the court shall remand such proceedings to the Secretary with directions--

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in its opinion, the law requires.

(4) Enforcement.--The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 110.

SEC. 110. ENFORCEMENT.

(a) Jurisdiction.--The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this title or any order, rule, or regulation issued under this title.

(b) Referral to Attorney General.--The facts relating to any civil action authorized to be brought under this section, other than subsection (g), shall be referred to the Attorney General for appropriate action, except that nothing in this title shall be

construed as requiring the Secretary to refer to the Attorney General a violation of this title or any order, rule, or regulation issued under this title if the Secretary believes that the administration and enforcement of this title would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) Civil Penalties and Orders.--

(1) Civil penalties.--Any person who violates any provision of this title or any order, rule, or regulation issued under this title, or who fails or refuses to pay, collect, or remit any assessment or late-payment charge required of the person under this title or any order, rule, or regulation issued under this title, may be assessed a civil penalty by the Secretary of not less than $1,000 nor more than $10,000 for each such violation. Each violation shall be considered as a separate offense.

(2) Cease-and-desist orders.--In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) Notice and hearing.--No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing on the record before the Secretary with respect to such violation.

(4) Finality.--The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final

and conclusive unless the affected person files an appeal from the Secretary's order in accordance with subsection (e).

(e) Review by Court of Appeals.--

(1) Commencement of action.--Any person against whom a civil penalty assessed or cease-and-desist order issued under subsection (d) may obtain review of the penalty or order by--

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in--

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record.--The Secretary shall promptly file in the court a certified copy of the record on which such violation was found.

(3) Standard of review.--The findings of fact of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(f) Failure to Obey Orders.--Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered

a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing on the record and for judicial review under the procedures specified in subsections (d) and (e) of not more than $1,000 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(g) Failure to Pay Assessments.--If any person fails to pay a civil penalty after it has become a final and unappealable order issued by the Secretary, the Secretary shall commence a civil action in an appropriate district court of the United States to enforce such order. In such action, the validity and appropriateness of such order imposing such penalty shall not be subject to review.

SEC. 111. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) In General.--The Secretary may make such investigations as the Secretary considers necessary--

(1) to effectively carry out the responsibilities of the Secretary under this title; or

(2) to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this title, or any order, rule, or regulation issued under this title.

(b) Administration.--For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any record that is relevant to the

inquiry.

(c) Subpoena.--Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. Such court may issue an order requiring such person to appear before the Secretary, to produce records, if so ordered, or to give testimony touching the matter under investigation.

(d) Contempt.--Any failure to obey such subpoena of the court may be punished by such court as contempt thereof.

(e) Process.--All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(f) Jurisdiction.--The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 112. REQUIREMENT OF REFERENDUM.

(a) In General.--Not later than 24 months after the effective date of the order first issued under section 104 after enactment of the title, the Secretary shall conduct a referendum among growers, grower-shellers, and importers, who during a representative period determined by the Secretary have been engaged

in the production or importation of pecans, for the purpose of ascertaining whether growers, grower-shellers, and importers favor continuation, termination, or suspension of the order.

(b) Other Referenda.--

(1) In general.--After the referendum required under subsection (a), the Secretary shall hold a referendum on request of the Board or 10 percent or more of the total number of growers, grower-shellers, and importers, to determine if growers, grower-shellers, and importers favor the termination or suspension of the order.

(2) Suspension or termination.--The Secretary shall terminate or suspend such order, in accordance with section 113(b), whenever the Secretary determines that such suspension or termination is favored by a majority of those voting in a referendum.

(c) Costs of Referendum.--The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this title, except for the salaries of Government employees.

(d) Manner.--

(1) In general.--Referenda conducted pursuant to this title shall be conducted in such a manner as is determined by the Secretary.

(2) Advance registration.--A grower, grower-sheller, or importer who chooses to vote in any referendum conducted under

this title shall register in person prior to the voting period at the appropriate local office of the Agricultural Stabilization and Conservation Service, as determined by the Secretary, for such grower, grower-sheller, or importer after receiving notice under paragraph (4) from such office concerning such referendum.

(3) Voting.--A grower, grower-sheller, or importer who votes in any referendum conducted under this title shall vote in person at the appropriate local office of the Agricultural Stabilization and Conservation Service, as determined by the Secretary.

(4) Notice.--Each Agricultural Stabilization and Conservation Service office shall notify all growers, grower-shellers, and importers in the area of such office, as determined by the Secretary, at least 30 days prior to a referendum conducted under this title. Such notice shall explain the registration and voting procedures established under this subsection.

SEC. 113. SUSPENSION OR TERMINATION OF ORDER.

(a) Mandatory Suspension or Termination.--The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or provision.

(b) Suspension or Termination.--If, as a result of any referendum conducted under this title, the Secretary determines

that suspension or termination of an order is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall--

(1) within 6 months after making such determination, suspend or terminate, as the case may be, collection of assessments under the order; and

(2) suspend or terminate, as the case may be, activities under the order in an orderly manner as soon as practicable.

(c) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this title.

SEC. 114. AMENDMENTS.

The provisions of this title applicable to an order shall be applicable to amendments to an order.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.--There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this title.

(b) Administrative Expenses.--Funds appropriated to carry out this title shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this title.

TITLE II--MUSHROOMS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Mushroom Promotion, Research,

and Consumer Information Act''.

SEC. 202. FINDINGS AND DECLARATION OF POLICY.

(a) Findings.--Congress finds that--

(1) mushrooms are an important food that is a valuable part of the human diet;

(2) the production of mushrooms plays a significant role in the Nation's economy in that mushrooms are produced by hundreds of mushroom producers, distributed through thousands of wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) mushroom production benefits the environment by efficiently using agricultural byproducts;

(4) mushrooms must be high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of this important product are available to the people of the United States;

(5) the maintenance and expansion of existing markets and uses, and the development of new markets and uses, for mushrooms are vital to the welfare of producers and those concerned with marketing and using mushrooms, as well as to the agricultural economy of the Nation;

(6) the cooperative development, financing, and implementation of a coordinated program of mushroom promotion, research, and consumer information are necessary to maintain and expand existing markets for mushrooms; and

(7) mushrooms move in interstate and foreign commerce, and

mushrooms that do not move in such channels of commerce directly burden or affect interstate commerce in mushrooms.

(b) Policy.--It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this title, of an orderly procedure for developing, financing through adequate assessments on mushrooms produced domestically or imported into the United States, and carrying out an effective, continuous, and coordinated program of promotion, research, and consumer information designed to--

(1) strengthen the mushroom industry's position in the marketplace;

(2) maintain and expand existing markets and uses for mushrooms; and

(3) develop new markets and uses for mushrooms.

(c) Construction.--Nothing in this title may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

SEC. 203. DEFINITIONS

As used in this title:

(1) Commerce.--The term ''commerce'' means interstate, foreign, or intrastate commerce.

(2) Consumer information.--The term ''consumer information'' means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

(3) Council.--The term ''Council'' means the Mushroom Council established under section 205(b).

(4) Department.--The term ''Department'' means the United States Department of Agriculture.

(5) First handler.--The term ''first handler'' means any person, as described in an order issued under this title, who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, including mushrooms of the person's own production.

(6) Importer.--The term ''importer'' means any person who--

(A) imports, on average, over 500,000 pounds of mushrooms annually from outside the United States; or

(B) with respect to an amount of mushrooms that, on average, exceeds 500,000 pounds annually, acts as agent, broker, or consignee of any person or nation that produces mushrooms outside the United States for sale in the United States.

(7) Industry information.--The term ''industry information'' means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

(8) Marketing.--The term ''marketing'' means the sale or other disposition of mushrooms in any channel of commerce.

(9) Mushrooms.--The term ''mushrooms'' means all varieties

of cultivated mushrooms grown within the United States for the fresh market, or imported into the United States for the fresh market, that are introduced into the channels of commerce, except that such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed, as may be determined by the Secretary.

(10) Person.--The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(11) Producer.--The term ''producer'' means any person engaged in the production of mushrooms who owns or who shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

(12) Promotion.--The term ''promotion'' means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

(13) Research.--The term ''research'' means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of mushrooms.

(14) Secretary.--The term ''Secretary'' means the Secretary of Agriculture.

(15) State and united states.--The terms ''State'' and ''United States'' include the 50 States of the United States,

the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 204. ISSUANCE OF ORDERS.

(a) General.--To effectuate the declared policy of section 202(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this title applicable to producers, importers, and first handlers of mushrooms. Any such order shall be national in scope. Not more than one order shall be in effect under this title at any one time.

(b) Procedures.--

(1) Issuance of an order.--The Secretary may propose the issuance of an order under this title, or an association of mushroom producers or any other person that will be affected by this title may request the issuance of, and submit a proposal for, such an order.

(2) Publication of order.--Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) Issuance of order.--After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the

requirements of this title. Such order shall be issued and, if approved by producers and importers of mushrooms as provided in section 206(a), shall become effective not later than 120 days following publication of the proposed order.

(c) Amendments.--

(1) In general.--The Secretary, from time to time, may amend any order issued under this section.

(2) Application of title.--Except as otherwise provided in section 205(g)(2)(B), the provisions of this title applicable to an order shall be applicable to amendments to the order.

SEC. 205. REQUIRED TERMS IN ORDERS.

(a) In General.--Each order issued under this title shall contain the terms and conditions and conditions prescribed in this section.

(b) Mushroom Council.--

(1) Establishment and membership of council.--

(A) Establishment.--The order shall provide for the establishment of, and selection of members to, a Mushroom Council that shall consist of at least four members and not more than nine members.

(B) Membership.--Except as provided for in paragraph (2), the members of the Council shall be mushroom producers and importers appointed by the Secretary from nominations submitted by producers and importers in the manner authorized by the Secretary, except that no more than one member may be appointed to the Council from

nominations submitted by any one producer or importer.

(2) Appointments.--

(A) In general.--In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

(B) Units.--In establishing such geographical distribution of mushroom production, a whole State shall be considered as a unit and such units shall be organized into four regions that shall fairly represent the geographic distribution of mushroom production within the United States.

(C) Importers.--Importers shall be represented as a separate region.

(D) Members per region.--The Secretary shall appoint one member from each region that produces or imports, on average, at least 35,000,000 pounds of mushrooms annually.

(E) Additional members.--Subject to the nine-member limit on the number of members on the Council provided in paragraph (1), the Secretary shall appoint an additional member to the Council from a region for each additional 50,000,000 pounds of production or imports per year, on average, within the region.

(F) For purposes of this paragraph, in determining

average annual mushroom production in each of the four regions of the United States established under this paragraph, the Secretary shall only consider mushroom produced by producers covered by this title, as defined in section 203(11).

(3) Terms; compensation.--

(A) Terms.--The term of appointment to the Council shall be for 3 years, except that the initial appointments shall to the extent practicable be proportionately for 1-year, 2-year, and 3-year terms.

(B) Compensation.--Council members shall serve without compensation but shall be reimbursed for their expenses incurred in performing their duties as members of the Council.

(c) Powers and Duties of the Council.--The order shall define the powers and duties of the Council, which shall include the power and duty--

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules to effectuate the terms and provisions of the order;

(3) to appoint members of the Council to serve on an executive committee;

(4) to propose, receive, evaluate, and approve budgets, plans, and projects of mushroom promotion, research, consumer information, and industry information, as well as to contract

and enter into agreements with appropriate persons to implement plans or projects;

(5) to develop and propose to the Secretary voluntary quality and grade standards for mushrooms;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order; and

(8) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this title, only in--

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may be used for any purpose for which the invested funds may be used.

(d) Plans and Budgets.--

(1) Submission to Secretary.--The order shall provide that the Council shall submit to the Secretary for approval any plan or project of promotion, research, consumer information,

or industry information.

(2) Budgets.--The order shall require the Council to submit to the Secretary for approval budgets on a fiscal year basis of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, consumer information, and industry information plans and projects.

(3) Approval by Secretary.--No plan or project of promotion, research, consumer information, or industry information, or budget, shall be implemented prior to its approval by the Secretary.

(e) Contracts and Agreements.--

(1) In general.--To ensure efficient use of funds, the order shall provide that the Council may enter into contracts or agreements for the implementation and carrying out of plans or projects of mushroom promotion, research, consumer information, or industry information, including contracts with producer organizations, and for the payment of the cost thereof with funds received by the Council under the order.

(2) Requirements.--Any such contract or agreement shall provide that--

(A) the contracting party shall develop and submit to the Council a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the

approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Council of activities conducted, and make such other reports as the Council or the Secretary may require.

(3) Producer organizations.--The order shall provide that the Council may contract with producer organizations for any other services. Any such contract shall include provisions comparable to those provided in subparagraphs (A), (B), and (C) of paragraph (2).

(f) Books and Records of Council.--

(1) In general.--The order shall require the Council to--

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Council.

(2) Audits.--The Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) Assessments.--

(1) Collection and payment.--

(A) In general.--The order shall provide that each first handler of mushrooms for the domestic fresh market produced in the United States shall collect, in the manner prescribed by the order, assessments from producers and remit the assessments to the Council.

(B) Importers.--The order also shall provide that each importer of mushrooms for the domestic fresh market shall pay assessments to the Council in the manner prescribed by the order.

(C) Direct marketing.--Any person marketing mushrooms of that person's own production directly to consumers shall remit the assessments on such mushrooms directly to the Council in the manner prescribed in the order.

(2) Rate of assessment.--The rate of assessment prescribed by the order--

(i) for the first year of the order, may not exceed one-quarter cent per pound of mushrooms;

(ii) for the second year of the order, may not exceed one-third cent per pound of mushrooms;

(iii) for the third year of the order, may not exceed one-half cent per pound of mushrooms; and

(iv) for the following years of the order, may not exceed one cent per pound of mushrooms.

(3) Use of assessments.--The order shall provide that the assessments shall be used for payment of the expenses

in implementing and administering this title, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this title, except for the salaries of Government employees incurred in conducting referenda.

(4) Limitation on collection.--No assessment may be collected on mushrooms that a first handler certifies will be exported as mushrooms.

(h) Prohibition.--The order shall prohibit any funds received by the Council under the order from being used in any manner for the purpose of influencing legislation or government action or policy, except that such funds may be used by the Council for the development and recommendation to the Secretary of amendments to the order as prescribed in this title and for the submission to the Secretary of voluntary grade and quality standards for mushrooms under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(i) Books and Records.--

(1) In general.--The order shall require that each handler of mushrooms, importer of mushrooms, and each person marketing mushrooms of such person's own production maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) Availability to Secretary.--Such information shall be made available to the Secretary as is appropriate for the administration or enforcement of this title, the order, or any regulation issued under this title.

(3) Other information.--In addition, the Secretary shall authorize the use under this title of information regarding handlers and importers that may be accumulated under a law or regulation other than this title or regulations under this title.

(4) Confidentiality.--

(A) In general.--All information obtained by the Secretary under paragraph (1) shall be kept confidential by all officers and employees of the Department and agents of the Council and only such information so obtained as the Secretary considers relevant may be disclosed by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) Limitations.--Nothing in this paragraph may be construed to prohibit--

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by such person.

(5) Availability of information.--

(A) In general.--Except as provided in section 208, information obtained under this title may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) Penalty.--Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Council or the Department, shall be removed from office.

(6) Withholding information.--Nothing in this subsection shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.

(j) Other terms and Conditions.--The order also shall contain such terms and conditions, not inconsistent with this title, as are necessary to effectuate this title, including

provisions for the assessment of a penalty for each late payment of assessments under subsection (g).

SEC. 206. REFERENDA.

(a) Initial Referendum.--

(1) In general.--Within the 60-day period immediately preceding the effective date of an order issued under section 204(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether the order shall go into effect.

(2) Approval of order.--The order shall become effective, as provided in section 204(b), if the Secretary determines that it has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

(b) Succeeding Referenda.--

(1) Determination concerning order.--

(A) In general.--Effective 5 years after the date on which an order becomes effective under section 204(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether they favor continuation, termination, or suspension of the order.

(B) Request for referendum.--Effective beginning 3 years after the date on which an order becomes effective

under section 204(b), the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum, to ascertain whether producers and importers favor termination or suspension of the order.

(2) Suspension or termination.--If, as a result of any referendum conducted under paragraph (1), the Secretary determines that suspension or termination of an order is favored by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum, the Secretary shall--

(A) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(B) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) Manner.--Referenda conducted pursuant to this section shall be conducted in such a manner as is determined by the Secretary.

SEC. 207. PETITION AND REVIEW.

(a) Petition.--

(1) In general.--A person subject to an order issued

under this title may file with the Secretary a petition-

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(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings.--The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling.--After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) Review.--

(1) Commencement of action.--The district courts of the United States in any district in which such person is an inhabitant or carries on business are vested with jurisdiction to review such ruling, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling.

(2) Process.--Service of process in such proceedings may be had on the Secretary by delivering a copy of the complaint to the Secretary, under such regulations as the Secretary may prescribe.

(3) Remands.--If the court determines that such ruling is not in accordance with law, the court shall remand

such proceedings to the Secretary with directions--

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in its opinion, the law requires.

(4) Enforcement.--The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 208.

SEC. 208. ENFORCEMENT.

(a) Jurisdiction.--The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this title.

(b) Referral to Attorney General.--The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this title shall be construed as requiring the Secretary to refer to the Attorney General a violation of this title if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) Civil Penalties and Orders.--

(1) Civil penalties.--Any person who violates any provision of any order or regulation issued by the Secretary under this

title, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) Cease-and-desist orders.--In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) Notice and hearing.--No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) Finality.--The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) Review by Court of Appeals.--

(1) Commencement of action.--Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by--

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice

of appeal in--

(i) the court of appeals of the United States for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record.--The Secretary shall promptly file in the court the record on which such violation was found.

(3) Standard of review.--The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) Failure to Obey Orders.--Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) Failure to Pay Penalties.--If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary

shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 209. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) Investigations.--The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this title or to determine whether any person subject to this title has engaged or is about to engage in any action that constitutes or will constitute a violation of this title or of any order or regulation issued under this title.

(b) Subpoenas, Oaths, and Affirmations.--For the purpose of such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from anyplace in the United States.

(c) Aid of Courts.--In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of the person and the production of records. The court may issue an order requiring such person to

appear before the Secretary to produce records or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. Process in any such case may be served in the judicial district in which such person is an inhabitant or wherever such person may be found.

SEC. 210. SAVINGS PROVISION.

Nothing in this title may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

SEC. 211. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this title, terminate or suspend the operation of such order or provision. The termination or suspension of any order, or any provision thereof, shall not be considered an order under the meaning of this title.

SEC. 212. AMENDMENTS.

The provisions of this title applicable to orders shall be applicable to amendments to orders.

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.--There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this title.

(b) Administrative Expenses.--The funds so appropriated shall

not be available for payment of the expenses or expenditures of the Council in administering any provisions of an order issued under this title.

SEC. 214. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title.

TITLE III--POTATOES

SEC. 301. SHORT TITLE.

This title may be cited as the ''Potato Research and Promotion Act Amendments of 1989''.

SEC. 302. FINDINGS AND DECLARATION OF POLICY.

Section 302 of the Potato Research and Promotion Act (7 U.S.C. 2611) is amended--

(1) in the first paragraph--

(A) in the first sentence, by inserting ''and foreign countries'' after ''United States''; and

(B) in the second sentence, by inserting ''and imported into the United States from foreign countries'' after ''United States''; and

(2) in the last paragraph, by inserting ''and imported into the United States from foreign countries'' after ''United States'' each place it appears.

SEC. 303. DEFINITIONS.

Section 303 of the Potato Research and Promotion Act (7 U.S.C. 2612) is amended--

(1) in subsection (c)--

(A) by striking ''forty-eight contiguous'' and inserting ''50''; and

(B) by inserting after ''United States'' the following: ''and foreign countries''; and

(2) by adding at the end the following:

''(g) The term 'importer' means any person who imports tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes into the United States or who acts as an agent, broker or consignee for any person or nation that produces Irish Potatoes outside the United States for sale in the United States.''.

SEC. 304. AUTHORITY TO ISSUE PLANS.

The last sentence of section 304 of the Potato Research and Promotion Act (7 U.S.C. 2613) is amended--

(1) by striking ''forty-eight contiguous'' and inserting ''50''; and

(2) by inserting after ''United States'' the following: ''and foreign countries''.

SEC. 305. ALTERNATIVE PLAN.

The Potato Research and Promotion Act is amended by inserting after section 308 (7 U.S.C. 2617) the following new section:

''SEC. 308A. ALTERNATIVE PLAN.

''(a) In General.--

''(1) Requirement to issue plan.--Notwithstanding the provisions of sections 305, 306, 308, and 314 that are inconsistent with this section, the Secretary shall

publish the proposed alternative plan required by this section, within 60 days of the receipt of a request from a producer or producer organization to implement such a plan, if the Secretary determines that such alternative plan effectuates the declared policy of this Act.

''(2) Terms and conditions.--Any alternative plan issued pursuant to this section shall contain the terms and conditions prescribed in this section.

''(3) Relationship to other plan.--

''(A) Provisions.--In issuing the alternative plan under this section, the Secretary shall incorporate by reference the provisions of the potato research and promotion plan in effect pursuant to this Act that are not inconsistent with the amendments made pursuant to the alternative plan.

''(B) Board members.--Each board member that is sitting on the effective date of the alternative plan shall continue to serve the full term of appointment of the member pursuant to section 308.

''(b) National Potato Promotion Board.--

''(1) Establishment.--The alternative plan shall provide for the establishment by the Secretary of a National Potato Promotion Board (hereinafter in this title referred to as 'the board').

''(2) Powers and duties.--The alternative plan shall define the powers and duties of the board, which shall

include powers--

"(A) to administer such plan in accordance with the terms and conditions of such plan;

''(B) to make rules and regulations to effectuate the terms and conditions of such plan;

''(C) to receive, investigate, and report to the Secretary complaints of violations of such plan; and

''(D) to recommend to the Secretary amendments to such plan.

"(3) Composition.--

''(A) In general.--The alternative plan shall provide that the board shall be composed of representatives of producers and up to five representatives of importers and the public appointed by the Secretary from nominations submitted in accordance with this subsection.

''(B) Nomination of producer and importer representatives.--Representatives of producers and importers shall be nominated by producers and importers in such manner as may be prescribed by the Secretary.

''(C) Nomination of public representatives.--Public representatives shall be nominated by the board in such manner as may be prescribed by the Secretary.

''(D) Failure to nominate.--If producers or importers fail to select nominees for appointment to the board, or the board fails to nominate public representatives, the Secretary may appoint persons on the basis of

representation as provided for in such plan.

''(E) Referendum.--The requirement for inclusion of public representatives on the board shall not be subject to approval in a referendum.

''(4) Compensation.--The alternative plan shall provide that board members shall serve without compensation, but shall be reimbursed for reasonable expenses incurred in performing their duties as members of the board.

''(5) Budget.--The alternative plan shall provide that the board shall prepare and submit to the Secretary for the approval of the Secretary a budget, on a fiscal period basis, of the anticipated expenses and disbursements of the board in the administration of the plan, including probable costs of research, development, advertising, and promotion.

''(c) Assessments.--

''(1) Rate.--The alternative plan shall provide that the board shall recommend to the Secretary and the Secretary shall fix the assessment rate at not more than 2 cents per 100 pounds of potatoes handled, except that if approved by producers and importers pursuant to section 314, the rate of assessment shall not exceed one-half of 1 percent of the immediate past 10-calendar-year United States average price received for potatoes by growers as reported by the Department of Agriculture.

''(2) Use.--The alternative plan shall provide that--

''(A) funds collected by the board shall be used for research, development, advertising, or promotion of potatoes and potato products and such other expenses for the administration, maintenance, and functioning of the board, as may be authorized by the Secretary, including any referendum and administrative costs incurred by the Department of Agriculture under this title, except that the provision for payment to the Department of Agriculture for any referendum and administrative costs so incurred shall not be subject to producer or importer approval in a referendum;

''(B) no advertising or sales promotion program shall make any reference to private brand names or use false or unwarranted claims in behalf of potatoes or their products or false or unwarranted statements with respect to the attributes or use of any competing products; and

''(C) no funds collected by the board shall in any manner be used for the purpose of influencing governmental policy or action, except as provided by subsection (b)(2)(D).

''(3) Refunds.--The alternative plan shall not provide for a refund of funds collected by the board.

''(d) Programs and Projects.--The alternative plan shall

provide that the board shall, subject to paragraphs (1) and (2) of subsection (c), develop and submit to the Secretary for the approval of the Secretary any research, development, advertising, or promotion programs or projects, and that any such program or project must be approved by the Secretary before becoming effective.

''(e) Contracts and Agreements.--The alternative plan shall provide the board with authority to enter into contracts or agreements, with the approval of the Secretary, for the development and carrying out of research, development, advertising, or promotion programs or projects, and the payment of the cost thereof with funds collected pursuant to this title.

''(f) Books and Records.--The alternative plan shall provide that the board shall maintain books and records and prepare and submit to the Secretary such reports from time to time as may be prescribed for appropriate accounting with respect to the receipt and disbursement of funds entrusted to the board and cause a complete audit report to be submitted to the Secretary at the end of each fiscal period.

''(g) Escrow Account for Assessment Refunds.--

''(1) In general.--The board shall--

''(A) establish an escrow account to be used for assessment refunds; and

''(B) place funds in such account in accordance with paragraph (2) during the period beginning on the

effective date of the alternative plan issued under this section and ending on the date of the referendum on the alternative plan issued pursuant to section 314(e).

''(2) Amount placed in account.--The board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

''(3) Right to refund.--Subject to paragraphs (4), (5), and (6), any producer or importer shall have the right to demand and receive from the board a one-time refund of assessments collected from such producer or importer during the period referred to in paragraph (1) if--

''(A) such producer or importer is responsible for paying such assessments;

''(B) such producer or importer does not support the program established under this title; and

''(C) the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e).

''(4) Form of demand.--Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the board.

''(5) Proof of payment.--Such refund shall be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is

demanded.

''(6) Proration.--If the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection and the alternative plan issued pursuant to this section is not approved pursuant to a referendum conducted under section 314(e), the board shall prorate the amount of such refunds among all eligible producers and importers who demand such refund.

''(h) Application to All States.--Notwithstanding any other provision of this Act, an alternative plan issued under this section shall apply to all 50 States.''.

SEC. 306. ASSESSMENTS.

Section 310 of the Potato Research and Promotion Act (7 U.S.C. 2619) is amended--

(1) in subsection (c), by striking ''subsections (a) and (b)'' and inserting ''subsections (a), (b), and (d)"; and

(2) by adding at the end the following new subsection:

''(d)(1) The assessment on imported tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes under an alternative plan issued under section 308A shall be--

''(A) established by the board so that the effective assessment rate shall equal that established on domestic production; and

''(B) paid by the importer to the Potato Board at the time of entry into the United States.

''(2) Each importer under an alternative plan issued under section 308A shall maintain a separate record indicating--

''(A) the total quantity of tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes imported into the United States that are included under the terms of the plan as well as those that are exempt under such plan; and

''(B) such information as may be prescribed by the board.

"(3) Importers responsible for payment of assessments under this subsection shall--

''(A) maintain and make available for inspection by the Secretary such books and records as are required by the plan;

''(B) file reports at the times, and in the manner, and having the content prescribed by the plan; and

''(C) make such information and data available to the board and Secretary as is appropriate or necessary for the effectuation, administration, or enforcement of this title or of any plan or regulation issued pursuant to this title.

''(4) Notwithstanding any other provision of this title, assessments collected under this section shall be used to reimburse the Secretary for costs incurred by the Secretary

for implementing and administering the amendments made by Potato Research and Promotion Act Amendments of 1989.''.

SEC. 307. REFERENDUM REQUIREMENT FOR ALTERNATIVE PLAN.

Section 314 of the Potato Research and Promotion Act (7 U.S.C. 2623) is amended:

(1) in subsection (b) by striking "two-thirds of the producers" and all that follows through "by not less than"; and

(2) by adding at the end the following new subsection:

''(e)(1) Not later than 120 days after publication of the proposed alternative plan pursuant to section 308A(a)(1) and after notice and opportunity for public comment, the Secretary shall issue an alternative plan under section 308A. Such alternative plan shall become effective as provided in this subsection.

''(2) Not later than 24 months after the date of issuance of the alternative plan, the Secretary shall conduct a referendum among producers and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of potatoes, for the purpose of ascertaining whether the alternative plan issued under section 308A is approved or disapproved by such producers and importers.

''(3) Such alternative plan shall be continued only if the Secretary determines that the alternative plan has not been disapproved by a majority of the producers and importers

voting in the referendum.

''(4) If such alternative plan is not approved, the Secretary shall terminate such alternative plan, and the original plan issued under section 308 shall become effective.''.

TITLE IV--LIMES

SEC. 401. SHORT TITLE.

This title may be cited as the ''Lime Research, Promotion, and Consumer Information Act''.

SEC. 402. FINDINGS, PURPOSES, AND LIMITATIONS.

(a) Findings.--Congress finds that--

(1) domestically produced limes are grown by many individual producers;

(2) virtually all domestically produced limes are grown in the States of Florida and California;

(3) limes move in large part in channels of interstate and foreign commerce;

(4) in recent years, large quantities of limes have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for limes and the development of additional and improved markets for limes are vital to the welfare of lime producers and other persons concerned with producing, marketing, or processing limes;

(6) a coordinated program of research, promotion, and consumer information regarding limes is necessary for the

maintenance and development of such markets; and

(7) lime producers, lime producer-handlers, lime handlers, and lime importers are unable to implement and finance such a program without cooperative action.

(b) Purposes.--The purposes of this title are--

(1) to authorize the establishment of an orderly procedure for the development and financing (through an adequate assessment) of an effective and coordinated program of research, promotion, and consumer information regarding limes designed--

(A) to strengthen the position of the lime industry in domestic and foreign markets; and

(B) to maintain, develop, and expand markets for limes; and

(2) to treat domestic and foreign producers of limes equitably.

(c) Limitations.--

(1) Quality standards and production.--Nothing in this title shall be construed to require quality standards for limes, control the production of limes, or otherwise limit the right of the individual producers to produce limes.

(2) Imported limes.--Nothing in this title shall be construed as a trade barrier to limes produced in foreign countries.

SEC. 403. DEFINITIONS.

For purposes of this title:

(1) Board.--The term ''Board'' means the Lime Board provided for under section 405(b).

(2) Consumer information.--The term ''consumer information'' means any action taken to provide information to, and broaden the understanding of, the general public regarding the use, nutritional attributes, and care of limes.

(3) Handle.--The term ''handle'' means to sell, purchase, or package limes.

(4) Handler.--The term ''handler'' means any person in the business of handling limes.

(5) Importer.--The term ''importer'' means any person who-

(A) imports limes into the United States; or

(B) acts as an agent, broker, or consignee for any person or nation that produces limes outside of the United States for sale in the United States.

(6) Lime.--The term ''lime'' means the fruit of a citrus aurantifolia tree for the fresh market.

(7) Marketing.--The term ''marketing'' means the sale or other disposition of limes in commerce.

(8) Order.--The term ''order'' means a lime research, promotion, and consumer information order issued by the Secretary under section 404(a).

(9) Person.--The term ''person'' means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity.

(10) Producer.--The term ''producer'' means any person who

produces limes in the United States for sale in commerce.

(11) Producer-handler.--The term ''producer-handler'' means any person who is both a producer and handler of limes.

(12) Promotion.--The term ''promotion'' means any action taken under this title (including paid advertising) to present a favorable image for limes to the general public with the express intent of improving the competitive position and stimulating the sale of limes.

(13) Research.--The term ''research'' means any type of research relating to the use and nutritional value of limes and designed to advance the image, desirability, marketability, or quality of limes.

(14) Secretary.--The term ''Secretary'' means the Secretary of Agriculture.

(15) State and United States.--The terms ''State'' and ''United States'' include the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

SEC. 404. ISSUANCE OF ORDERS.

(a) In General.--Subject to this title, and to effectuate the declared purposes of this title, the Secretary shall issue and, from time to time, amend lime research, promotion, and consumer information orders applicable to handlers, producers, producer-handlers, and importers of limes.

(b) Notice and Public Comment.--The Secretary shall publish each order proposed to be issued under subsection (a) and give due

notice and opportunity for public comment on such order.

(c) Submission of a Proposed Order or Amendment.--A proposal for an order or amendment under subsection (a) may be submitted by, and an opportunity for public comment may be requested by, any person affected by this title.

(d) Initial Proposal.--In the case of the first proposal for an order the Secretary receives under subsection (c), the Secretary shall comply with subsection (b) not later than the end of the 60-day period beginning on the date the Secretary receives such proposal.

(e) Findings and Issuance of an Order.--After notice of and an opportunity for public comments has been provided under subsection (b), the order or amendment that is the subject of such notice and public comment shall be issued if the Secretary finds that, on the basis of the evidence introduced by such public comment, the issuance of the order or amendment and all the terms and conditions therein will further the purposes of this title.

(f) Effective Date.--An order issued under subsection (a) shall take effect on the date such order is published in the Federal Register.

SEC. 405. REQUIRED TERMS IN ORDERS.

(a) In General.--An order issued by the Secretary under section 404(a) shall contain the terms and conditions described in this section and, except as provided in section 406, no other terms or conditions.

(b) Lime Board.--Such order shall provide for the

establishment of a Lime Board as follows:

(1) Membership.--The Board shall be composed of--

(A) seven members who are producers and who are not exempt from an assessment under subsection (d)(5)(A);

(B) three members who are importers and who are not exempt from an assessment under subsection (d)(5)(A); and

(C) one member appointed from the general public.

(2) Appointment and nomination.--

(A) Appointment.--The Secretary shall appoint the members of the Board.

(B) Producers.--The seven members who are producers shall be appointed from individuals nominated by lime producers.

(C) Importers.--The three members who are importers shall be appointed from individuals nominated by lime importers.

(D) Public.--The public representative shall be appointed from nominations of the Board.

(E) Failure to nominate.--If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order. If the Board fails to nominate a public representative, such member may be appointed without a nomination.

(3) Alternates.--The Secretary shall appoint an alternate

for each member of the Board. An alternate shall--

(A) be appointed in the same manner as the member for whom such individual is an alternate; and

(B) serve on the Board if such member is absent from a meeting or is disqualified under paragraph (5).

(4) Terms.--Members of the Board shall be appointed for a term of 3 years. Of the members first appointed--

(A) three members shall be appointed for a term of 1 year;

(B) four members shall be appointed for a term of 2 years; and

(C) four members shall be appointed for a term of 3 years;

as designated by the Secretary at the time of appointment.

(5) Replacement.--If a member or alternate of the Board who was appointed as a producer, importer, or public representative ceases to belong to the group for which such member was appointed, such member or alternate shall be disqualified from serving on the Board.

(6) Compensation.--Members and alternates of the Board shall serve without pay.

(7) Travel expenses.--While away from their homes or regular places of business in the performance of duties for the Board, members and alternates shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government

service are allowed travel expenses under section 5703 of title 5, United States Code.

(8) Powers and duties.--The Board shall--

(A) administer orders issued by the Secretary under section 404(a), and amendments to such orders, in accordance with their terms and provisions and consistent with this title;

(B) prescribe rules and regulations to effectuate the terms and provisions of such orders;

(C) receive, investigate, and report to the Secretary accounts of violations of such orders;

(D) make recommendations to the Secretary with respect to amendments that should be made to such orders; and

(E) employ a manager and staff.

(c) Budgets and Plans.--Such order shall provide for periodic budgets and plans as follows:

(1) Budgets.--The Board shall prepare and submit to the Secretary a budget (on a fiscal period basis determined by the Secretary) of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall take effect on the approval of the Secretary.

(2) Plans.--Each budget shall include a plan for research, promotion, and consumer information regarding limes. A plan under this paragraph shall take effect on the approval of the

Secretary. The Board may enter into contracts and agreements, with the approval of the Secretary, for--

(A) the development and carrying out of such plan; and

(B) the payment of the cost of such plan with funds collected pursuant to this title.

(d) Assessments.--Such order shall provide for the imposition and collection of assessments with regard to the production and importation of limes as follows:

(1) Rate.--The assessment rate shall not exceed $.01 per pound of limes.

(2) Collection by first handlers.--Except as provided in paragraph (4), the first handler of limes shall--

(A) be responsible for the collection from the producer, and payment to the Board, of assessments under this subsection; and

(B) maintain a separate record of the limes of each producer so handled, including the limes owned by the handler.

(3) Producer-handlers.--For purposes of paragraph (2), a producer-handler shall be considered the first handler of limes produced by such producer-handler.

(4) Importers.--The assessment on imported limes shall be paid by the importer at the time of entry into the United States and shall be remitted to the Board.

(5) De minimis exception.--The following persons are exempt from an assessment under this subsection--

(A) a producer who produces less than 35,000 pounds of limes per year;

(B) a producer-handler who produces and handles less than 35,000 pounds of limes per year; and

(C) an importer who imports less than 35,000 pounds of limes per year.

(6) Claiming an exemption.--To claim an exemption under paragraph (5) for a particular year, a person shall submit an application to the Board--

(A) stating the basis for such exemption; and

(B) certifying that such person will not exceed the limitation required for such exemption in such year.

(e) Use of Assessments.--

(1) In general.--Such order shall provide that funds paid to the Board as assessments under subsection (d)--

(A) may be used by the Board to--

(i) pay for research, promotion, and consumer information described in the then current budget of the Board under subsection (c) and for other expenses incurred by the Board in the administration of an order;

(ii) pay such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary; and

(iii) fund a reserve established under section 406(4); and

(B) shall be used to pay the expenses incurred by the Secretary, including salaries and expenses of government employees in implementing and administering the order, except as provided in paragraph (2).

(2) Referenda.--Such order shall provide that the Board shall reimburse the Secretary, from assessments collected under subsection (d), for any expenses incurred by the Secretary in conducting referenda under this title, except for the salaries of Government employees.

(f) False Claims.--Such order shall provide that any promotion funded with assessments collected under subsection (d) may not make--

(1) any false or unwarranted claims on behalf of limes; and

(2) any false or unwarranted statements with respect to the attributes or use of any product that competes with limes for sale in commerce.

(g) Prohibition on Use of Funds.--Such order shall provide that funds collected by the Board under this title through assessments authorized by this title may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for in this title.

(h) Books, Records, and Reports.--

(1) By the board.--Such order shall require the Board--

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report regarding the activities of the Board during such fiscal year.

(2) By others.--So that information and data will be available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this title (or any order or regulation issued under to this title), such order shall require handlers, producer-handlers, and importers who are responsible for the collection of assessments under subsection (d)--

(A) to maintain and make available for inspection by the Secretary such books and records as may be required by the order; and

(B) to file, at the times, in the manner, and having the content prescribed by the order, reports regarding the collection of such assessments.

(i) Confidentiality.--

(1) In general.--Such order shall require that all information obtained pursuant to subsection (h)(2) shall be kept confidential by all officers and employees of the Department of Agriculture and of the Board. Only such information as the Secretary considers relevant shall be disclosed and only in a suit or administrative hearing brought

at the request of the Secretary or to which the Secretary or any officer of the United States is a party involving the order with respect to which the information was furnished or acquired.

(2) Limitations.--Nothing in this subsection prohibits--

(A) issuance of general statements based on the reports of a number of handlers, producer-handlers, and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary, of the name of any person violating an order issued under section 404(a), together with a statement of the particular provisions of the order violated by such person.

SEC. 406. PERMISSIVE TERMS IN ORDERS.

On the recommendation of the Board and with the approval of the Secretary, an order issued under section 404(a) may--

(1) provide authority to the Board to exempt from such order limes exported from the United States, subject to such safeguards as the Board may establish to ensure proper use of the exemption;

(2) provide authority to the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures;

(3) provide that the Board may convene from time to time working groups drawn from producers, handlers,

producer-handlers, importers, exporters, or the general public to assist in the development of research and marketing programs for limes;

(4) provide authority to the Board to accumulate reserve funds from assessments collected pursuant to section 405(d) to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years in which production and assessment income may be reduced, except that any reserve fund so established may not exceed the amount budgeted for operation of this title for 1 year;

(5) provide authority to the Board to use, with the approval of the Secretary, funds collected under section 405(d) for the development and expansion of lime sales in foreign markets; and

(6) provide for terms and conditions--

(A) incidental to, and not inconsistent with, the terms and conditions specified in this title; and

(B) necessary to effectuate the other provisions of such order.

SEC. 407. PETITION AND REVIEW.

(a) Petition.--

(1) In general.--A person subject to an order may submit to the Secretary, within a period prescribed by the Secretary, a written petition--

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order

is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) Hearings.--A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) Ruling.--After the hearing, the Secretary shall make a ruling on the petition that shall be subject to review under subsection (b).

(b) Review.--

(1) Commencement of action.--A person aggrieved by a ruling under subsection (a)(3) may obtain a review of such ruling by commencing, within the 20-day period beginning on the date such ruling is made, a civil action in the district court of the United States for the district in which--

(A) such person resides; or

(B) carries on business related to the subject matter of such action.

(2) Process.--Service of process in such civil action may be made on the Secretary by delivering to the Secretary a copy of the complaint.

(3) Remands.--If the court determines that the ruling is not in accordance with law, the court shall remand the proceedings to the Secretary with directions--

(A) to make a ruling as the court shall determine to

be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) Enforcement.--The pendency of proceedings instituted pursuant to this subsection shall not impede, hinder, or delay the United States or the Secretary from obtaining relief pursuant to section 408.

SEC. 408. ENFORCEMENT.

(a) Jurisdiction.--The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this title.

(b) Referral to Attorney General.--The facts relating to any civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that nothing in this title shall be construed as requiring the Secretary to refer to the Attorney General a violation of this title if the Secretary believes that the administration and enforcement of the order or regulation would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) Civil Penalties and Orders.--

(1) Civil penalties.--Any person who violates any provision of any order or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order

or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be considered as a separate offense.

(2) Cease-and-desist orders.--In addition to, or in lieu of, such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) Notice and Hearing.--No penalty shall be assessed or cease-and-desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) Finality.--The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

(d) Review by Court of Appeals.--

(1) Commencement of action.--Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by--

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in--

(i) the court of appeals of the United States for

the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) Record.--The Secretary shall promptly file in the court the record on which such violation was found.

(3) Standard of review.--The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

(e) Failure to Obey Orders.--Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate court of appeals has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d) of not more than $500 for each offense. Each day during which the failure continues shall be considered as a separate offense.

(f) Failure to Pay Penalties.--If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in an appropriate district court of the United

States. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

SEC. 409. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) In General.--The Secretary may make such investigations as the Secretary considers necessary--

(1) for the effective carrying out of the responsibilities of the Secretary under this title; or

(2) to determine whether a person has engaged or is engaging in any acts or practices that constitute a violation of any provision of this title, or any plan, rule, or regulation issued under this title.

(b) Administration.--For the purpose of any such investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry.

(c) Subpoena.--Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents.

Such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation.

(d) Contempts.--Any failure to obey such order of the court may be punished by such court as contempt thereof.

(e) Process.--All process in any such case may be served in the judicial district of which such person is an inhabitant or wherever such person may be found.

(f) Jurisdiction.--The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 410. INITIAL REFERENDUM.

(a) Requirement.--Not later than 2 years after the date on which the Secretary first issues an order under section 404(a), the Secretary shall conduct a referendum among producers, producer-handlers, and importers who--

(1) are not exempt from assessment under section 405(d)(5); and

(2) produced or imported limes during a representative period as determined by the Secretary.

(b) Purpose of Referendum.--The referendum referred to in subsection (a) is for the purpose of determining whether the issuance of the order is approved or favored by not less than a majority of the producers, producer-handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.

(c) Confidentiality.--The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this section, or section 411, shall be held strictly confidential and shall not be disclosed.

(d) Refund of Assessments from Escrow Account.--

(1) In general.--The assessments collected from producers, producer-handlers, and importers prior to announcement of the results of the referendum provided for in this section shall be held in an escrow account until the results of the referendum are published by the Secretary. The amount in the escrow account shall be equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(2) Approval of order.--If the order is approved, the funds in the escrow account shall be released on publication of the final regulations by the Secretary to be used for the purposes of this title.

(3) Disapproval of order.--

(A) In general.--If the amendment to the order is not approved in such referendum, the funds in the escrow account shall be refunded on a pro rata basis to eligible producers, producer-handlers, and importers on publication of the order terminating the program established by this title, after a deduction for a proportionate amount of the expenses incurred by the

Secretary and the agency of Government that assists in administering the import provisions of the order.

(B) Right to refund.--An producer, producer-handler, or importer shall have the right to receive a refund--

(i) if demand is made personally, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event less than 90 days after the date of publication of the results of the referendum; and

(ii) on submission of proof satisfactory to the Board that the person paid the assessment for which refund is sought and did not collect the assessment from another person.

(C) Surplus funds.--Any funds not refunded under this paragraph shall be released to be used to carry out this title.

SEC. 411. SUSPENSION AND TERMINATION.

(a) Finding of Secretary.--If the Secretary finds that an order issued under section 404(a), or a provision of such order, obstructs or does not tend to effectuate the purposes of this title, the Secretary shall terminate or suspend the operation of such order or provision.

(b) Periodic Referenda.--The Secretary may periodically conduct a referendum to determine if lime producers, producer-handlers, and importers favor the continuation, termination, or suspension of any order issued under section 404(a) and in effect at the time of such referendum.

(c) Required Referenda.--The Secretary shall hold a referendum under subsection (b)--

(1) at the request of the Board; or

(2) if not less than 10 percent of the lime producers, producer-handlers, and importers subject to assessment under this title submit a petition requesting such a referendum.

(d) Technical amendment.--The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this title.

(e) Vote.--The Secretary shall suspend or terminate the order at the end of the marketing year if the Secretary determines that--

(1) the suspension or termination of the order is favored by not less than a majority of those persons voting in a referendum under subsection (b); and

(2) the producers, producer-handlers, and importers comprising this majority produce and import more than 50 percent of the volume of limes produced and imported by those voting in the referendum.

SEC. 412. AMENDMENTS.

The provisions of this title applicable to orders shall be applicable to amendments to orders.

SEC. 413. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.--There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this title.

(b) Administrative Expenses.--The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provisions of an order issued under this title.

SEC. 414. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this title.

OMNIBUS RESEARCH AND PROMOTION ACT

Summary

Title 1 - Pecan Promotion and Research Act of 1989

This title would authorize the Secretary to publish an order to enable domestic growers, handlers, shellers, and importers of pecans to develop, finance, and carry out a nationally coordinated pecan research and promotion program. The program would be administered by a 15-member Pecan Marketing Board composed of eight growers, four shellers, one handler, one importer, one public representative, and, at the option of the Board, one non-voting consultant or advisor representing a country other than the United States.

After 2 years, the Board is expected to generate up to $6 million per year based on a maximum assessment rate of 2 cents per pound of inshell pecans or the equivalent. Additionally, an optional one-quarter cent special State assessment would be authorized to be remitted to the Board for the purpose of utilizing such funds by the State Board for research projects to promote pecans conducted pursuant to State law.

A delayed referendum would be conducted no later than 2 years after the effective date of the Act. Approval of the program would require a majority of growers, grower-shellers and importers voting in the referendum. Funds equal to 10 percent of the total assessments collected during the period between issuance of the order and conduct of the referendum, would be placed in an escrow account for pro rata payment of refunds if the program is not approved. If the referendum is approved, all funds in the escrow account will be returned to the Pecan Board and no refunds paid.

Title 2 - Mushroom Promotion, Research, and Consumer Information Act

Title 2 would enable domestic producers and importers of fresh mushrooms to develop, finance, and carry out a nationally coordinated program for mushroom promotion, research, and consumer information. The program would be administered by a Mushroom Council consisting of at least four and not more than nine members as determined by the levels of U.S. production and imports. The program would generate approximately $4.5 million annually based on a maximum assessment rate of 1 cent per pound. The payment of assessments by producers and importers would be no more than one-quarter cent per pound for the first year, one-third cent per pound for the second year, one-half cent per pound for the third year, and 1 cent per pound for the fourth year. Producers or importers of less than 500,000 pounds per year would be exempt from the assessment and other provisions of the title.

Title 2 provides that no later than 60 days prior to the effective date of the order, the Secretary must conduct a referendum among producers and importers of mushrooms. Approval is by a simple majority of those eligible and voting in the referendum. No provision is included for assessment refunds. The Secretary may conduct a referendum no sooner than 3 years following the effective date of an order if requested by 30 percent of those subject to the order. The bill also permits the development of proposed voluntary quality and grade standards for fresh mushrooms.

Title 3 - Potato Research and Promotion Act Amendments of 1989

This title would amend the Potato Research and Promotion Act to eliminate the refund provision, provide for assessments on imported tablestock, frozen, processed or seed potatoes, provide for importer representation on the board, extend coverage of the Act to the States of Alaska and Hawaii, and extend comparable reporting and recordkeeping requirements to importers as is currently required of domestic handlers. This title also provides that any amendment to the plan is subject to a referendum.

Title 4 - Lime Research, Promotion, and Consumer Information Act

This title would enable domestic producers, producer-handlers, and importers of fresh limes to develop, finance, and carry out a nationally coordinated program for lime promotion, research, and consumer information. The program would be administered by an 11 member Lime Board composed of seven producers, three importers, and one public representative. The program is expected to generate up to $2 million per year based on an assessment rate of not to exceed 1 cent per pound of fresh limes.

The title contains a provision for a delayed referendum to be conducted no later than 2 years after the implementation of the order. Approval of the order would require a simple majority of those producers, producer-handlers, and importers voting. Producers or importers of less than 35,000 pounds of limes per year would be exempt from the assessment and other provisions of the title.

Funds equal to 10 percent of the total assessments collected during the period between issuance of the order and conduct of the referendum, would be placed in an escrow account for pro rata payment of refunds if the program is not approved. If the referendum is approved, all funds in the escrow account will be used for the purposes of the order.

Mushrooms

- 4 to 9 member Mushroom Council
- $1 million to $4.5 million per year program
- 1/4 cent per pound assessment - 1st year
- 1/3 cent per pound assessment - 2nd year
- 1/2 cent per pound assessment - 3rd year
- 1 cent per pound assessment - 4th year
- Up front referendum
- no refunds
- full reimbursement to USDA
- prohibition on use of assessments to influence legislation

Potatoes (Amendment to Potato Research and Promotion Act)

- eliminates current refunds of assessments
- includes importers in the program and includes them on the Board
- delayed referendum (2 years) with escrow for refunds
- full reimbursement to USDA
- 2 cents per 100 pounds assessment
- prohibition on use of assessments to influence legislation

Limes

- 11 member Board (7 producers, 3 importers, 1 public representative)
- $2 million per year program
- 1 cent per pound assessment
- delayed referendum (2 years) with escrow for refunds
- no refunds of assessments after referendum
- full reimbursement to USDA
- prohibition on use of assessments to influence legislation

Pecans

- 15 member Board (8 growers, 4 shellers, 1 handler, 1 importer, 1 public representative and at the option of the Board 1 non-voting advisor representing a foreign country)
- $6 million per year program
- 2 cents per pound assessment and optional 1/4 cent special state assessment if authorized by state law
- delayed referendum (2 years) with escrow for refunds
- no refunds of assessments after referendum
- full reimbursement to USDA
- prohibition on use of assessments to influence legislation

OMNIBUS RESEARCH AND PROMOTION ACT

SUBCOMMITTEE MARK-UP

STATEMENT OF CHAIRMAN HATCHER

WE ARE MEETING THIS AFTERNOON TO MARK-UP THE OMNIBUS RESEARCH AND PROMOTION ACT. THIS BILL WILL ENABLE THE PRODUCERS AND IMPORTERS OF PECANS, MUSHROOMS AND LIMES TO DEVELOP, FINANCE AND CARRY OUT NATIONALLY COORDINATED PROGRAMS FOR THE PROMOTION AND RESEARCH OF THEIR COMMODITIES. THE BILL WILL ALSO AMEND THE POTATO RESEARCH AND PROMOTION ACT TO INCLUDE IMPORTERS OF POTATOES TO THOSE COVERED BY THE POTATO RESEARCH AND PROMOTION ORDER, AND TO ELIMINATE THE REFUND PROVISION OF THAT ACT.

WITH RESPECT TO THE PECAN, MUSHROOM AND LIME TITLES OF THIS BILL, BOARDS OR COUNCILS WOULD BE ESTABLISHED TO ADMINISTER THE RESEARCH AND PROMOTION ORDERS. THESE BOARDS OR COUNCILS WOULD BE COMPOSED OF REPRESENTATIVES OF THE VARIOUS GROUPS COVERED BY THE ORDERS. THE RATE OF ASSESSMENT FOR THE PECAN PROMOTION PROGRAM WOULD BE NO MORE THAN 2 CENTS PER POUND OF INSHELL PECANS. THE RATE OF ASSESSMENT FOR THE MUSHROOM PROGRAM WOULD BE NO MORE THAN 1 CENT PER POUND. AND THE RATE OF ASSESSMENT FOR THE LIME PROMOTION PROGRAM WOULD NOT EXCEED 1 CENT PER POUND OF FRESH LIMES.

A REFERENDUM WOULD BE CONDUCTED UNDER THE PECAN, LIME AND POTATO TITLES NO LATER THAN 2 YEARS AFTER THE EFFECTIVE DATE OF THE ACT OR THE IMPLEMENTATION OF THE ORDER. FOR THE MUSHRROM PROGRAM, THE BILL REQUIRES AN UP FRONT REFERENDUM. REFUNDS OF THE ASSESSMENTS ARE AUTHORIZED IF THE PECAN, LIME, OR POTATO PROGRAMS ARE NOT APPROVED.

STATEMENT OF THE HONORABLE BILL EMERSON

SUBCOMMITTEE ON DOMESTIC MARKETING,
CONSUMER RELATIONS AND NUTRITION

NOVEMBER 16, 1989

THANK YOU MR. CHAIRMAN. THIS SUBCOMMITTEE HAS HELD THREE HEARINGS ON THE PROPOSALS TO ESTABLISH OR AMEND RESEARCH AND PROMOTION PROGRAMS FOR POTATOES, MUSHROOMS, LIMES AND PECANS. WE HAVE THOROUGHLY REVIEWED THESE PROPOSALS AND I BELIEVE THEY ARE SOUND PROPOSALS. AS I HAVE SAID IN THE PAST, RESEARCH AND PROMOTION PROGRAMS ARE PROGRAMS THAT I WHOLEHEARTEDLY SUPPORT. THEY ARE A MEANS BY WHICH PRODUCERS CAN JOIN TOGETHER TO PROMOTE THEIR PRODUCTS, TO PROVIDE NUTRITIONAL INFORMATION TO CONSUMERS, AND TO SUPPORT RESEARCH EFFORTS.

OVER THE PAST THIRTY YEARS THE CONGRESS HAS APPROVED SEVERAL RESEARCH AND PROMOTION PROGRAMS, DESIGNED AND IMPLEMENTED BY THE PRODUCERS THEMSELVES. THESE PROGRAMS PROVIDE PRODUCERS WITH THE STRUCTURE TO ESTABLISH AND TO FUND PROGRAMS DESIGNED TO PROMOTE RESEARCH, SALES AND CONSUMPTION OF THEIR PRODUCTS. I SUPPORT THESE TYPES OF RESEARCH AND PROMOTION PROGRAMS AND BELIEVE THAT THEY ARE A MEANS FOR PRODUCERS IN THE UNITED STATES TO NOT ONLY PROMOTE THEIR PRODUCTS; BUT ALSO TO FUND RESEARCH PROGRAMS

DESIGNED TO INCREASE USES OF THE VARIOUS PRODUCTS AND TO ADVISE CONSUMERS OF THE BENEFITS OF THE PRODUCTS.

IN CRAFTING THESE BILLS WE HAVE RECEIVED ADVICE FROM THE INDUSTRIES INVOLVED AND THE DEPARTMENT OF AGRICULTURE.

IN THE PAST OTHER PRODUCERS OF COMMODITIES HAVE IMPLEMENTED RESEARCH AND PROMOTION PROGRAMS. SUCH TYPES OF COMMODITIES INCLUDE BEEF, COTTON AND DAIRY.

I AM PLEASED THAT THE SUBCOMMITTEE WILL HAVE AN OPPORTUNITY TO ACT ON THE BILL BEFORE US TODAY AND I URGE MY COLLEAGUES TO SUPPORT IT.

THANK YOU MR. CHAIRMAN.

STATEMENT OF THE
HON. LEON E. PANETTA
REGARDING H.R. 3664
THE OMNIBUS AGRICULTURAL PROMOTION AND RESEARCH ACT OF 1989

NOVEMBER 16, 1989

Mr. Chairman, I would like to thank you for scheduling this markup of the "Omnibus Agricultural Promotion and Research Act of 1989", and for including a refined version of the "Fresh Mushroom Promotion, Research, and Consumer Information Act" in this package.

Commodity research and promotion programs are an increasingly important aspect of agriculture. The House Agriculture Committee has established a track record of success in authoring such "self-help" programs.

All too often, agriculture is critized for being too production oriented -- for spending a great deal of time and money figuring out how to maximize production, and then spending even more money dealing with the surplus that results from our success. Now, finally, as evidenced by the great expansion in the number of research and promotion programs in this country, we are learning the importance of marketing our products both at home and abroad.

Today, there is widespread support for Federal commodity research and promotion programs -- programs that are administered by the Federal government, but at the request of the affected industry, and ultimately, in the manner that that industry believes is in its own best interest.

The Fresh Mushroom title of this bill (Title II) would strengthen the fresh mushroom industry's position in the marketplace, maintain and expand existing markets, and help to develop new markets and uses for fresh mushrooms.

Title II and the program it would authorize are patterned after the extremely successful promotion and research programs that currently exist for dairy, beef, and pork. All of these programs, I hasten to add, are paid for by the producers themselves at no cost to the taxpayer. The same would be true for the mushroom promotion and research program.

As with other promotion programs, the Secretary of Agriculture would issue an order, which would set up assessment procedures for producers and first handlers of mushrooms and an administrative framework for the operation of the program. The order would cover all varieties of cultivated mushrooms commercially grown or imported into the United states for the fresh market. Mushrooms used in processing would not be included.

Title II includes provisions for the Secretary to establish a Mushroom Council, made up of producers, first handlers, or importers, to administer the order. Ultimately, it is this Council who will run the program and set the direction for promotion, research, and information efforts.

The assessment rates for mushrooms that are included in this bill are the product of compromise and reflect the cooperation of producers who represent nearly 90 percent of the mushrooms grown

in the U.S. I am pleased that all interested parties, with one exception, have come together to reach a concensus on the how the mushroom program should be structured and administered as well as on how it should be paid for. I only regret that all who will ultimately benefit from the program are not willing to contribute to its success.

Since a majority of the producers, representing a majority of the mushroom production in the U.S., must first vote to establish the program, all producers will ultimately have an opportunity to have their say before an order to establish the program is issued. The mushroom industry is small enough and concentrated enough that to make a real impact with this program we will need industry wide support.

The benefits to the producer and the consumer of promotion programs like the mushroom program are numerous. The producers take on more responsibility in the marketing of their product and, therefore, in their economic well-being.

Information provided by these types of programs on the commodity's nutritional benefits, as well as on proper selection, storage, handling, and preparation of the product is an important service to the consumer. At a time when consumer confidence in the healthfulness of some parts of our food supply has been shaken, such information is extremely valuable.

I would also point out that the research component of the program authorized by this bill and the results of that research, should help to ensure the safety and healthfulness of our food

supply. As federal research dollars have declined, I believe it is highly commendable that American agricultural producers are joining together and pooling their resources in these efforts to improve their product and strengthen their position in the marketplace.

Title II of this omnibus bill is built upon cooperation and compromise. Most importantly, it is indicative of what the mushroom industry can achieve for itself, should the bill be enacted and a research and promotion program established.

I urge my Colleagues on the Subcommittee to support this bill, and I look forward to moving quickly to full Committee and the floor, so that producers can have the opportunity to enjoy the benefits of these programs should they so choose.

# # #

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COMMITTEE ON AGRICULTURE
COMMITTEE ON SCIENCE, SPACE AND TECHNOLOGY
SELECT COMMITTEE ON AGING

Congress of the United States
House of Representatives
Washington, DC 20515

November 16, 1989

HONORABLE RICHARD H. STALLINGS

before the

Subcommittee on Domestic Marketing,
Consumer Relations and Nutrition
Committee on Agriculture

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to sit in on this hearing, and I want to thank you and the members of this Committee for ~~all of~~ your efforts on this legislation, which includes my amendments to the Potato Research and Promotion Act of 1971. I -- along with 11 of my colleagues -- introduced legislation on May 4, 1989, to improve methods of assessments to fund a program of research, promotion, and consumer education for potatoes.

As you know, under the authority and provision of the Potato Research Act, the Secretary of Agriculture appoints potato producers from throughout the United States to serve on the Potato Board. The Board collects assessments on all potatoes used for human consumption and for seed. These assessments are used for the purpose of conducting research and promotional programs to expand markets for potatoes.

The 1971 Act has been extremely beneficial to potato growers across the country, as well as to consumers. However, modifications are needed to reflect the changes in the potato market since the program was first established.

First, current law authorizes assessments only on fresh potatoes produced in the United States. This bill would authorize assessments on imported potatoes and potato products. It would assure equitable treatment for domestic producers, as well as foreign producers who export potatoes to the United States -- both of whom benefit from the generic promotional campaigns conducted by the Board. Similar legislation already has been passed for other commodities, including the beef and pork programs.

Second, this bill would correct another inequity in present law -- any potato producer can request refunds from assessments. Approximately five percent of potato producers currently request refunds amounting to more than 25 percent of assessment monies. Again, all potato producers benefit directly or indirectly from the promotional activities of the Potato Board. Too many large producers request refunds and still benefit from the program without contributing to it.

With nearly 95 percent of current potato producers supporting the promotional and research efforts of the Potato Board, it is evident that the industry already supports the assessment process. This legislation would not change provisions of current law which allow the Secretary to monitor the Board's activities, to terminate the promotional plan if necessary, or to hold a referendum if requested by 10 percent of the growers. These safeguards, similar to other commodity assessment programs, maintain accountability.

With these two modifications in the Potato Research and Promotion Act, the potato industry can more effectively meet research needs and promotional efforts.

Mr. Chairman, again I thank you for this opportunity and I ask for your support -- and that of the other Subcommittee members -- for these proposed changes.

STATEMENT OF
THE HONORABLE DAN GLICKMAN (D-KS), CHAIRMAN
WHEAT, SOYBEANS, AND FEED GRAINS SUBCOMMITTEE

BEFORE A BUSINESS MEETING
OF THE
DOMESTIC MARKETING, CONSUMER RELATIONS, AND NUTRITION SUBCOMMITTEE

TO CONSIDER
"THE OMNIBUS AGRICULTURAL COMMODITY PROMOTION
AND RESEARCH ACT OF 1989"

2:00 PM, THURSDAY, NOVEMBER 16, 1989
1302 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D. C.

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MR. CHAIRMAN: I appreciate your yielding to me for the statement I have on this bill. I want to commend you, the Ranking Member of the Subcommittee, Mr. Emerson, and your staffs for the bill we have before us. It is clear considerable time and work have gone into fashioning this package.

At the Committee's business meeting to consider HR 2209, the Soybean Promotion, Research, and Consumer Information Act, I indicated my interest in reviewing all check-off bills to make sure such legislation makes sure that the entities responsible for administering the check-off programs and the trade associations representing producers of the same commodities keep an arms-length relationship. I do not believe Congress should be in the business of writing bills which link these check-off programs and lobbying groups together in "sweetheart deals."

That was the intent of the amendment which I developed and which the Committee approved to HR 2209. When I began reviewing the package before us today, I had the same objective in mind. I do not have an amendment to offer today. I believe this bill meets what I am convinced is a critical arms-length test.

I also believe that the programs included in this legislation are different from the soybean program in an important way. They do not involve as many growers and the growers of the commodities covered by these programs are a more homogenous group than the great differences which exist between soybean farmers in this country.

Thus, while I do have some concerns about some relatively minor points in the legislation, I have received assurances that the Administration has no objections to them, and most growers and others affected by the programs are nearly unanimous in support of the legislation. Accordingly, I will not attempt to amend the bill on those points either. However, given my interest in this issue generally, I would reserve the right to file with the Committee's report on the bill additional views stating my opinions in greater detail.

Mr. Chairman, thank you again for the time and for yielding.

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MR LEWIS (F)

SPEECH

THANK YOU, MR. CHAIRMAN. I want to commend you on convening this mark-up to address the Omnibus Research and Promotion Act of 1989, legislation that will allow producers of pecans, mushrooms, potatoes and limes, the opportunity to develop and finance research and promotion programs.

These programs will assist the producers in improving the market for their specific products. In this time of tight budget constraints, I believe the research and promotion programs will compliment the research funds from USDA that are becoming more and more scarce.

I am particularly interested in Title 4, the Lime Research, Promotion, and Consumer Information Act. Along with my fellow colleague from Florida, Mr. Fascell, we introduced the legislation that is the basis for this title. We feel this title will improve the marketing, distribution and consumption of limes on a national level.

Implementation of this legislation will allow American lime producers to equalize an injustice that exists in the current Federal Marketing Order for limes. Roughly 50% of the limes consumed in the United States are imported, and USDA estimates - depending on which estimates you review - that anywhere from 76% to 98% of the domestically produced limes are grown in Florida and fall under the Federal Marketing Order. This means that all of the research and promotion

currently being performed in the United States on limes is being paid for by funds gathered under the Federal Lime Marketing Order. Chairman Hatcher's legislation simply establishes a program whereby imported limes will be assessed at the same rate as Florida limes, in order to fund research and promotion.

Mr. Chairman, I believe the research and promotion programs that you have set up in this legislation will greatly assist producers as we move into the tight budget years of the 1990's.

I would like to add that I stand ready to assist you in moving this legislation to final passage as quickly as possible, so that those producers involved may reap the benefits of this program in a timely manner.

Again, Mr. Chairman, thank you for calling today's hearing.

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POTATO RESEARCH AND PROMOTION ACT AMENDMENTS OF 1989

SEC. 1. SHORT TITLE.

This Act may be cited as the "Potato Research and Promotion Act Amendments of 1989".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

Section 302 of the Potato Research and Promotion Act (7 U.S.C. 2611) is amended --

(1) In the first paragraph --

(A) In the first sentence, by inserting "and foreign countries" after "United States";

(B) In the second sentence, by inserting "and imported into the United States from foreign countries" after "United States"; and

(C) By striking the last sentence.

(2) In the first sentence of the second paragraph by inserting "or foreign commerce" after "channels of interstate",

(3) In the fourth paragraph --

(A) By inserting "and imported into the United States from foreign countries" after "commercial use";

(B) By striking at the end thereof "produced in the United States." and inserting in lieu thereof "and potato products."

SEC. 3. DEFINITIONS.

Section 303 of the Potato Research and Promotion Act (7 U.S.C. 2612) is amended —

(1) In subsection (c) —

(A) By striking "forty-eight contiguous" and inserting in lieu thereof "fifty"; and

(B) By inserting at the end thereof ", and grown in foreign countries and imported into the United States.".

(2) By adding at the end the following new subsection:

"(g) The term 'importer' means any person who imports table-stock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes into the United States or who acts as an agent, broker, or consignee for any person or nation that produces Irish potatoes outside the United States for sale in the United States."

SEC. 4. AUTHORITY TO ISSUE A PLAN.

Section 304 of the Potato Research and Promotion Act (7 U.S.C. 2613) is amended —

(1) By inserting in the first sentence "and to persons engaged in the importation of potatoes into the United States from foreign countries (hereinafter referred to as importers)" after

"(hereinafter referred to as handlers)";

(2) By inserting in the first sentence "or imported" after "potatoes handled";

(3) By striking in the second sentence "forty-eight contiguous" and inserting in lieu thereof "fifty"; and

(4) By inserting at the end thereof "and in foreign countries, if importers are subject to a plan".

SEC. 5. NOTICE AND HEARING

Section 305 of the Potato Research and Promotion Act (7 U.S.C. 2614) is amended —

(1) In the first sentence by striking "potato producers" and inserting in lieu thereof "interested persons"; and

(2) In the second sentence by striking "by potato producers or by any other interested person or persons, including the Secretary" and inserting in lieu thereof "by any interested person or persons, or the Secretary".

SEC. 6. REQUIRED TERMS IN PLANS.

Section 308 of the Potato Research and Promotion Act (7 U.S.C. 2617) is amended —

(1) In subsection (b) --

(A) By changing the period (.) at end of the first sentence to a colon (:) and by adding the following

proviso: "Provided, That when importers are subject to a plan, the board shall be composed also of up to five representatives of importers.";

(B) By adding after the second sentence the following new sentence: "Representatives of importers shall be nominated by importers in such manner as may be prescribed by the Secretary.";

(C) In the existing fourth sentence by inserting "or importers" after "If producers"; and

(D) In the last sentence by inserting "or importer when subject to a plan" after "producer".

(2) In subsection (e) --

(A) By striking "one cent" and inserting in lieu thereof "two cents"; and

(B) By inserting "or importers, when subject to a plan" after "producers".

(3) In subsection (f)(1) by inserting in the proviso "or importer when subject to a plan" after "producer"; and

(4) By striking subsection (g) in its entirety and redesignating subsequent subsections accordingly as "(g)", "(h)", and "(i)".

SEC. 7. PERMISSIVE TERMS IN PLANS.

Section 309 of the Potato Research and Promotion Act (7 U.S.C. 2618) is amended by redesignating subsection "(g)" as "(i)" and inserting new subsections "(g)" and "(h)" as follows:

"(g) Providing that any potato producer or importer against whose potatoes any assessment is made and collected under authority of this title and who is not in favor of supporting the research and promotion program as provided for under this title shall have the right to demand and receive from the board a refund of such assessment: Provided, That such demand shall be made personally by such producer or importer in accordance with regulations and on a form and within a time period prescribed by the board and approved by the Secretary, but in no event less than ninety days, and upon submission of proof satisfactory to the board that the producer or importer paid the assessment for which refund is sought, and any such refund shall be made within sixty days after demand therefor.

"(h) Providing authority to assess imports of tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes into the United States."

SEC. 8. ASSESSMENTS.

Section 310 of the Potato Research and Promotion Act (7 U.S.C. 2619) is amended --

(1) in subsection (a) by adding "(1)" after "(a)" and adding at

the end thereof the following new clause:

"(2) When subject to a plan, each importer designated by the board, pursuant to regulations issued under the plan, to make payment of assessments shall be responsible for payment to the board, as it may direct, of any assessment levied on potatoes. The assessment on imported tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes shall be (i) established by the board so that the effective assessment shall equal that on domestic production and (ii) paid by the importer to the board at the time of entry into the United States. Each such importer shall maintain a separate record including the total quantity of tablestock, frozen, processed potatoes for ultimate consumption by humans and seed potatoes imported into the United States which are included under the terms of the plan as well as those which are exempt under such plan, and shall indicate such other information as may be prescribed by the board. No more than one assessment shall be made on any imported potatoes.";

(2) In subsection (b) by inserting "or importers" after "handlers"; and

(3) In subsection (c)(1) by inserting "or importers" after "handlers".

SEC. 9. INVESTIGATION AND POWER TO SUBPENA.

Section 313 of the Potato Research and Promotion Act (7 U.S.C. 2622) is amended in subsection (a) --

(1) By striking in the first sentence "a handler or any other" and inserting in lieu thereof "any"; and

(2) In the last sentence by striking "handler or other".

SEC. 10. REQUIREMENT OF REFERENDUM.

Section 314 of the Potato Research and Promotion Act (7 U.S.C. 2623) is amended —

(1) In subsection (a) by changing the period (.) to a colon (:) at the end thereof and by adding the following proviso:

"Provided, That when the issuance of a plan would subject importers to the terms and conditions of a plan, the Secretary also shall conduct the referendum among importers, who during a representative period determined by the Secretary, have been engaged in the importation of potatoes, for the purpose of ascertaining whether the issuance of a plan is approved or favored by such importers."

(2) In subsection (b) by striking "two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the potatoes produced during the representative period by producers voting in such referendum, and by not less

than a majority of the producers voting in such referendum" and inserting in lieu thereof "a majority of the producers voting in such referendum or a majority of the producers and importers when the issuance of a plan would subject importers to the terms and conditions of a plan, voting in such referendum";

(3) In subsection (c) by striking "of potato producers"; and

(4) In subsection (d) by inserting ", or any importer or the volume of potatoes imported by the importer" after "potatoes".

SEC. 11. SUSPENSION OR TERMINATION OF PLANS.

Section 315 of the Potato Research and Promotion Act (7 U.S.C. 2624) is amended --

(1) In subsection (b) --

(A) By inserting ", and importers when subject to a plan," after "potato producers" the first time it appears;

(B) By inserting "and importers" after "potato producers" the second time it appears; and

(C) By striking "by the potato producers voting in the referendum" and inserting in lieu thereof "and imported by those voting in the referendum".

(2) By adding a new subsection "(c)" to read as follows:

"(c) The termination or suspension of any plan, or any

provision thereof, shall not be considered a plan within the meaning of this title."

SEC. 12. AMENDMENT PROCEDURE.

Section 316 of the Potato Research and Promotion Act (7 U.S.C. 2625) is amended —

(1) By inserting "(a) Except as provided in subsection (b)," at the beginning of the first sentence; and

(2) By adding at the end thereof the following new subsection "(b)":

"(b) Notwithstanding any other provision of this title, for the initial amendments to the plan, after enactment of the Potato Research and Promotion Act Amendments of 1989:

"(1) Upon request from a producer or a producer organization to amend the plan to (i) include the fifty States of the United States, (ii) to subject importers to the terms and conditions of a plan, and (iii) to eliminate provisions for refunds of assessments for those not in favor of supporting the research and promotion program as provided under this title, after notice and opportunity for public comment, when the Secretary has reason to believe that such amendments will tend to effectuate the declared policy of this title, the Secretary shall issue such amendments to the plan.

"(2) Not later than 24 months after the date of issuance of such amendments to the plan, the Secretary shall conduct a referendum among producers and importers, who during a representative period determined by the Secretary have been engaged in the production and importation of potatoes. The amendments shall be continued only if the Secretary determines that the amendments to the plan have been approved by a majority of the producers and importers voting in the referendum.

"(3) The board shall --

"(A) Establish an escrow account to be used for assessment refunds, and place funds in such account in accordance with subparagraph (B) during the period beginning on the effective date of the amendments to the plan issued under section 309 and ending on the date of the referendum on the amendments to the plan.

"(B) The board shall place in such account, from assessments collected during the period referred to in subparagraph (A), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

"(C) Subject to subparagraphs (D), (E), and (F), any producer or importer shall have the right to demand and

receive from the board a one-time refund of assessments collected from such producer or importer during the period referred to in subparagraph (A) if (i) such producer or importer is responsible for paying such assessments; (ii) such producer or importer does not support the program established under this title; and (iii) the amendments to the plan to subject imports to the terms and conditions of a plan and to eliminate provisions for refunds of assessments are not approved pursuant to a referendum conducted under subsection (b)(2) of this section.

"(D) Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the board.

"(E) Such refund shall be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is demanded; and

"(F) If the amount in the escrow account required to be established by subparagraph (B) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection

and the plan issued pursuant to this section is not approved pursuant to a referendum conducted under subsection (b)(2) of this section, the board shall prorate the amount of such refunds among all eligible producers and importers who demand such refund.

"(4) If such amendments to the plan are not approved, the Secretary shall terminate the amendments and the plan shall continue in effect without the amendments, except that the plan shall apply to the fifty States of the United States.".

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Friday, November 17, 1989

(Sub) Committee: Full

Business Meeting

met at 9:50 a.m. o'clock, in Room 1300 Longworth House Office Building

for the purpose of considering H.R. 3581, the Rural Economic Development Act of 1989

The following Members were present:

Mr. de la Garza	Mr. Johnson	Mr. Madigan
Mr. Rose	Mr. Harris	Mr. Coleman
Mr. English	Mr. Campbell	Mr. Marlenee
Mr. Huckaby	Mr. Sarpalius	Mr. Hopkins
Mr. Glickman	Ms. Long	Mr. Stangeland
Mr. Stenholm	Mr. Condit	Mr. Emerson
Mr. Volkmer	Mr.	Mr. Morrison
Mr. Hatcher	Mr.	Mr. Lewis
Mr. Staggers	Mr.	Mr. Smith
Mr. Olin	Mr.	Mr. Combest
Mr. Penny	Mr.	Mr. Schuette
Mr. Stallings	Mr.	Mr. Grandy
Mr. Jontz	Mr.	Mr. Herger
		Mr. Walsh
		Mr.
		Mr.
		Mr.

Staff present:

Bert R. Peña	Chip Conley
Dan Brinza	Glenda Temple
Fred Clark	Francie Monaghan
Joe Muldoon	Bill Cherry
John Hogan	Jim McDonald
Allie Devine	Dave Ebersole
Jim Davis	Bill O'Conner

Witnesses:

Present from the Administration to respond to any questions:

Mr. Roland Vautour, Under Secretary for Small Communities and Rural Development, U.S. Department of Agriculture, Washington, D.C.

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Friday, November 17, 1989
Full Committee
Business Meeting
Rural Economic Development
Act - H.R. 3581

Chairman de la Garza called the meeting to order for the purpose of considering H.R. 3581, a bill entitled the Rural Economic Development Act of 1989. (See attached copy of bill, as reported by the Subcommittee on Conservation, Credit, and Rural Development, and brief summary.)

Mr. English, Chairman of the Subcommittee on Conservation, Credit, and Rural Development, was recognized. Mr. English advised that following Subcommittee action, discrepancies in cost estimates by the Congressional Budget Office had been discovered, i.e., that there were costs to sections which previously had been thought to have no cost. Mr. English stated that he felt it would be prudent if the Committee would defer markup on the legislation until the cost estimates could be reviewed. There was no objection.

Chairman de la Garza thanked Mr. English and Mr. Coleman, the Ranking Minority Member of the Subcommittee, for their work on the legislation and advised that the measure would be the first item of business when the Committee returned for the 2nd session of the 101st Congress.

At 10:00 a.m. the meeting was adjourned, subject to the call of the Chair.

Glenda Temple

Glenda Temple

H.R. 3581

AS REPORTED BY THE SUBCOMMITTEE ON

CONSERVATION, CREDIT, AND RURAL DEVELOPMENT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.--This Act may be cited as the "Rural Economic Development Act of 1989".

(b) TABLE OF CONTENTS.--The table of contents is as follows:

TABLE OF CONTENTS

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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TITLE II--LOCAL PRIORITIZATION OF PROJECT FUNDING

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SEC. 202. GRANTS TO STATE REVOLVING FUNDS FOR LOANS TO VERY SMALL BUSINESS VENTURES.

TITLE III--ENHANCEMENT OF EXISTING RURAL DEVELOPMENT PROGRAMS

SEC. 301. REA TECHNICAL ASSISTANCE UNIT.
SEC. 302. DEFERMENT OF PAYMENT ON ECONOMIC DEVELOPMENT LOANS.
SEC. 303. RURAL HOUSING FINANCING BY THE FARM CREDIT BANKS.
SEC. 304. SECURITIZATION OF HOUSING LOANS.
SEC. 305. WATER AND WASTE LENDING BY BANKS FOR COOPERATIVES.
SEC. 306. AMENDMENTS TO THE BUSINESS AND INDUSTRY LOAN PROGRAM.
SEC. 307. WATER OR WASTE DISPOSAL LOANS TO BENEFIT RURAL BUSINESSES.
SEC. 308. RURAL WASTEWATER TREATMENT CIRCUIT RIDER PROGRAM.

TITLE IV--RURAL DEVELOPMENT INFORMATION SHARING AND TECHNOLOGY TRANSFERS

SEC. 401. RURAL DEVELOPMENT INFORMATION SHARING.
SEC. 402. RURAL TECHNOLOGY GRANTS.
SEC. 403. CONFORMING AMENDMENTS.

TITLE V--RURAL BUSINESS AND LEADERSHIP TRAINING

SEC. 501. EXTENSION SERVICE RURAL BUSINESS AND LEADERSHIP TRAINING PROGRAM.

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SEC. 615. POWERS OF THE CORPORATION.
SEC. 616. REGIONAL CENTERS.
SEC. 617. ACTIVITIES OF THE REGIONAL CENTERS.
SEC. 618. CORPORATE BOARD OF DIRECTORS.
SEC. 619. POWERS AND DUTIES OF CORPORATE BOARD.
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SEC. 621. FINANCIAL DISCLOSURE AND CONFLICTS OF INTEREST.
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SEC. 626. REPAYMENT OF FINANCIAL ASSISTANCE.
SEC. 627. REVOLVING FUND.
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TITLE VII--RURAL ELECTRIFICATION PROVISIONS

SEC. 701. SHORT TITLE; AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936.
SEC. 702. FINDINGS; STATEMENT OF POLICY.

Subtitle A--Amendments Relating to Title I of the 1936 Act

SEC. 711. GENERAL PROHIBITIONS.

Subtitle B--Amendments Relating to Title II of the 1936 Act

SEC. 721. NONDUPLICATION OF TELEPHONE FACILITIES.
SEC. 722. UPDATED DEFINITION OF TELEPHONE SERVICE.
SEC. 723. LOAN FEASIBILITY.
SEC. 724. ENCOURAGEMENT OF INVESTMENT BY TELEPHONE BORROWERS IN RURAL DEVELOPMENT PROJECTS.
SEC. 725. IMPROVEMENTS IN TELEPHONE PROGRAM.
SEC. 726. PROMPT PROCESSING OF TELEPHONE LOANS.

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SEC. 808. WATER AND WASTE FACILITY LOANS AND GRANTS FOR CONSOLIDATION AND ECONOMIES.
SEC. 809. PRESERVATION OF ELIGIBILITY.

TITLE I--REORGANIZATION OF THE DEPARTMENT OF

AGRICULTURE

SEC. 101. RURAL DEVELOPMENT ADMINISTRATION.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by--

(1) adding at the end the following:

"SEC. 359. RURAL DEVELOPMENT ADMINISTRATION.

"(a) ESTABLISHMENT.--There is established in the Department of Agriculture the Rural Development Administration, which shall be headed by an Administrator appointed by the Secretary.

"(b) TRANSFER OF FUNCTIONS TO THE ADMINISTRATION.--Notwithstanding the provisions of section 331, as soon as practicable, but in no case later than 180 days after the date of enactment of this section, the Secretary shall transfer to the Rural Development Administration the powers, duties, and assets of the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, related to the performance of rural development functions, including, but not limited to, the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, that administer sections 303 (in the case of loans made for purposes specified in paragraphs (2) and (3) of subsection (a)), 304(b), 306(a), 310A, 310B, and section 312(a) (in the case of loans made for the purposes specified in paragraphs (5) and (6)) of this Act, section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), titles V and VI of the Rural Development Act of 1972, and such other rural

development programs as the Secretary determines appropriate.

"(c) INCIDENTAL TRANSFERS.--The Secretary shall make such determinations, and shall transfer such personnel from the Farmers Home Administration, as may be necessary or appropriate with regard to the functions transferred under this section to the Rural Development Administration. The Secretary shall also make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available, or to be made available in connection with the functions transferred by this section, as the Secretary may deem necessary to accomplish the purposes of this section.

"(d) EFFECTIVE AND EFFICIENT TRANSFER OF AUTHORITY.--The Administrator of the Farmers Home Administration and the Secretary shall take whatever steps are necessary to assure the effective and efficient transfer of authority as provided for in this section.

"(e) ADMINISTRATION.--Except as provided in subsection (f), or as otherwise provided in this section, the Secretary shall carry out this Act through the Farmers Home Administration.

"(f) EXCEPTIONS.--The Secretary shall carry out section 303 (in the case of loans made for purposes specified in paragraphs (2) and (3) of section 303(a)), section 304(b), section 306(a), section 310A, section 310B, section 312(a) (in the case of loans made for the purposes specified in paragraphs (5) and (6)),

section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), titles V and VI of the Rural Development Act of 1972, and such other rural development programs as the Secretary determines appropriate through the Rural Development Administration.

"(g) REFERENCES.--Any reference in any law, regulation, or order in effect immediately before the date of the enactment of the Rural Economic Development Act of 1989 to the Farmers Home Administration or Farmers' Home Administration or to the Administrator of the Farmers Home Administration or of the Farmers' Home Administration relating to any function, power, or duty which is, on or after such date, a function, power, or duty of the Rural Development Administration or the Administrator of the Rural Development Administration, shall be deemed to be a reference to the Rural Development Administration or to the Administrator of the Rural Development Administration, as the case may be.

"(h) EFFECT ON PENDING PROCEEDINGS AND PARTIES TO SUCH PROCEEDINGS.--(1) Nonabatement of Actions.--This Act does not abate any proceeding commenced--

"(A) by or against any entity any function of which is transferred by this Act; or

"(B) by or against any officer thereof in the official capacity of such individual as such an officer.

"(2) Effect on Parties.--If an officer of the Farmers Home Administration, in the official capacity of such officer, is a party to a proceeding pending on the date of the enactment of

this Act, and under this Act the officer or any function of the officer is transferred to the Rural Development Administration, Department of Agriculture, then such action shall be continued with the Secretary or the Administrator, Rural Development Administration, or other appropriate officer of the Department substituted or added as a party.

"(3) Transfer of certain rights of Farmers Home Administration to Rural Development Administration.--The rights, interests, obligations, and duties of the Farmers Home Administration arising before the date of the enactment of the Rural Economic Development Act of 1989 Act out of any loan made, insured, or guaranteed, or any grant or contract made, by the Farmers Home Administration in the exercise of its functions will continue to be vested in the Farmers Home Administration (except with respect to any function to be exercised on or after such date by the Rural Development Administration), or in the Rural Development Administration (with respect to any function to be exercised on or after such date by the Rural Development Administration).

"(i) COMPENSATION OF ADMINISTRATOR.--The Administrator of the Rural Development Administration shall be compensated in accordance with subchapter VIII of chapter 53 of title 5, United States Code.".

(2) in section 309(e), by inserting "and the Rural Development Administration" after "Farmers Home Administration".

TITLE II--LOCAL PRIORITIZATION OF PROJECT FUNDING

SEC. 201. DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

(a) IN GENERAL.--The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

"SEC. 360. SYSTEM FOR DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

"(a) IN GENERAL.--

"(1) ASSISTANCE IN ELIGIBLE STATES.--Notwithstanding section 310B(d)(4), assistance under each designated rural development program shall be provided in eligible States to qualified projects in accordance with this section.

"(2) NO ASSISTANCE IN OTHER STATES.--The Secretary shall not provide assistance under any designated rural development program in any State which is not an eligible State.

"(b) DEFINITIONS.--As used in this section and section 361:

"(1) AREA PLAN.--The term 'area plan' means, with respect to a local area in a State, the long range rural development plan developed for the area. Each area plan shall identify the geographical boundaries of the area and include--

"(A) an overall economic plan for the area with goals, including economic development and quality of

life goals, and time lines based on a realistic assessment of conditions in the area, including, but not limited to--

"(i) the number and types of businesses in the area that are growing or declining, and a list of the types of businesses that the area could potentially support;

"(ii) the realistic possibilities for industrial recruitment in the area;

"(iii) the potential for the development of tourism in the area;

"(iv) the potential for the generation of employment in the area through the creation of small businesses and the expansion of existing businesses; and

"(v) the potential for the production of value-added agricultural products in the area;

"(B) an inventory and assessment of the human resources of the area, including, but not limited to--

"(i) a current list of organizations in the area and their special interests;

"(ii) the current level of participation of area residents in rural development activities and the level of participation required for successful implementation of the plan;

"(iii) the availability of general and

specialized job training in the area and the extent to which the needs of the area for such training are not being met;

"(iv) a list of area residents with special skills which could be useful in developing and implementing the plan; and

"(v) an analysis of the human needs of the area, the resources in the area available to meet those needs, and the manner in which the plan, if implemented, would increase the resources available to meet those needs;

"(C) the current degree of intergovernmental cooperation in the area and the degree of such cooperation needed for the successful implementation of the plan;

"(D) the ability and willingness of governments and citizens in the area to become involved in developing and implementing the plan;

(E) a description of how the governments in the area will apply budget and fiscal control processes to the plan; and

(F) the extent to which public services and facilities need to be improved to achieve the economic development and quality of life goals of the plan, taking into consideration, at a minimum--

"(i) law enforcement;

"(ii) fire protection;

"(iii) water and solid waste management;

"(iv) education;

"(v) health care;

"(vi) transportation;

"(vii) housing;

"(viii) communications; and

"(ix) the availability of, and capability to generate, electric power.

"(2) DESIGNATED RURAL DEVELOPMENT PROGRAM.--The term 'designated rural development program' means a program carried out under section 304(b), 306(a), 306B, or subsection (a) through (f) and (h) of section 310B of this Act, or under section 1323 of the Food Security Act of 1985, for which funds are available at any time during the fiscal year under such section".

"(3) ELIGIBLE STATE.--The term 'eligible State' means a State with respect to which all of the following apply not later than October 1, 1990:

"(A) ESTABLISHED RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.--The State has established a rural economic development review panel meeting the requirements of section 361.

"(B) APPOINTED STATE COORDINATOR.--The Governor of the State has appointed an officer or employee of the State government to--

"(i) manage, operate, and carry out the instructions of, the panel described in subparagraph (A); and

"(ii) serve as a liaison between the panel and the Federal and State agencies involved in rural development, including transmitting to the Secretary any list transmitted to the State coordinator pursuant to section 361(b)(6).

"(C) DESIGNATED AGENCY TO PROVIDE ADMINISTRATIVE SUPPORT TO PANEL.--The State has designated an agency to provide the panel and the State coordinator with support for the daily operation of the panel described in subparagraph (A).

"(4) QUALIFIED PROJECT.--The term 'qualified project' means any project--

"(A) for which the agency described in paragraph (2)(C) of the State has identified--

"(i) the alternative Federal, State, local, or private sources of assistance; and

"(ii) the related activities in the State; and

"(B) to which the Secretary is required by subsection (c)(4) to provide assistance.

"(5) STATE.--The term 'State' means each of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands,

Micronesia, the Marshall Islands, and Palau.

"(6) STATE COORDINATOR.--The term 'State coordinator' means the individual appointed by the Governor of the State to carry out the activities described in paragraph (3)(B).

"(7) STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.--The term 'State rural economic development review panel' or 'panel' means a panel specified in section 361.

"(c) DUTIES OF THE SECRETARY.--The Secretary shall, with respect to each eligible State--

"(1) review the list, if any, transmitted pursuant to subsection 361(b)(5) by any State coordinator;

"(2) determine whether each project described in an application in the list meets the requirements of the rural development program under which the application seeks assistance;

"(3) remove from the list any application for a project that does not meet the requirements;

"(4) provide assistance, subject to available funds, to the projects in the applications remaining in the list after the list has (if necessary) been modified pursuant to paragraph (3), giving great weight to the order in which the applications for such projects are ranked by the respective State panel, and, if assistance is provided to any project without providing assistance to all projects ranked higher in priority by the panel than such project, report to the panel, the Committee on Agriculture of the House of

Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate within 10 days of determining to fund such lower-ranked project on the reasons for not assisting any project ranked higher in priority by the panel;

"(5) within 30 days after the date of the enactment of any Act providing appropriations for any designated rural development program for any fiscal year, notify each State of the amounts to be made available to such State under such program for such fiscal year, and the aggregate for such fiscal year of such amounts under all the designated rural development programs;

"(6) pay per diem or otherwise reimburse each full-time officer or employee of the United States who is a member of a State rural economic development review panel for expenses incurred each day (including travel time) during which the officer or employee is engaged in the actual performance of a duty of the panel; and

"(7) from amounts appropriated for grants under any provision of section 306(a), make grants not to exceed $100,000 annually to each eligible State for the administrative costs associated with the State rural economic development review panel meeting the requirements of section 361.

"(d) OFFICIAL INFORMATION.--The Secretary may appoint as nonvoting members, temporarily and for specific purposes,

personnel from any department or agency of the United States, with the consent of the head of such department or agency, with expertise not available among the members of any State rural economic development review panel as may be necessary to enable the panel to perform a duty described in section 361(b).

"(e) ALLOCATION OF APPROPRIATED FUNDS.--

"(1) LIMITED REPROGRAMMING AUTHORITY.--The Secretary shall allocate the sums appropriated for direct loans, loan guarantees, or grants for any designated rural development program made available to the State under such program for any fiscal year to the projects specified in subsection (c)(4) giving great weight to the order in which the applications for such projects are ranked on the list specified in subsection (c)(1). If the sums appropriated for direct loans, loan guarantees, or grants for any designated rural development program made available to the State under such program for any fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in subsection (c)(4), the Secretary may, notwithstanding any provision of law relating to appropriations for any such program for the fiscal year, transfer to the program from other such programs part or all of the sums appropriated for loans, loan guarantees, or grants, as the case may be, made available to the State for such other programs for such fiscal year. The amount transferred from a program under

this subsection shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on such list the full amount of assistance requested for each such project.

"(2) EQUITABLE REALLOCATION OF UNOBLIGATED FUNDS.--Notwithstanding paragraph (1), the Secretary shall, on July 15 of each year, and from time to time thereafter during the fiscal year as the Secretary determines appropriate, pool from among the States any unobligated funds appropriated for direct loans, loan guarantees, or grants for each designated rural development program and reallocate such funds according to need, as determined by the Secretary.

"(f) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.--The Federal Advisory Committee Act shall not apply to any State rural economic development review panel.

"(g) NO LIABILITY OF MEMBERS OF STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANELS.--The members of a State rural economic development review panel shall not be liable to any person with respect to any determination made by the panel.

"(h) ELIGIBILITY FOR WATER AND WASTE FACILITY LOANS.--Notwithstanding any other provision of law, a borrower under title III of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall be eligible to receive loans and grants under section 306 on an equal basis with any other applicant for such assistance, and the terms and conditions, rules, criteria and other provisions of section 306 shall apply to such a borrower.

In the case of applications from such a borrower, the Administrator of the Rural Electrification Administration shall provide technical assistance.

"SEC. 361. STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.

"(a) IN GENERAL.--Each State rural economic development review panel specified in section 360(b)(3)(A) shall meet all of the requirements of this section.

"(b) DUTIES.--The panel shall have the following duties:

"(1) REVIEW RURAL DEVELOPMENT PLANS OF LOCAL AREAS.--To review each area plan submitted by a local area.

"(2) EVALUATE AREA PLANS AND APPLICATIONS FOR ASSISTANCE.

"(A) AREA PLANS.--To evaluate, pursuant to a written policy and criteria, each area plan submitted by a local area and either--

"(i) ACCEPT SATISFACTORY PLANS.--accept any area plan that is technically and economically adequate, feasible, and likely to succeed in meeting the stated goals of the plan, unless the plan is incompatible with any other area plan for that area that has been accepted by the panel; or

"(ii) RETURN UNSATISFACTORY PLANS.--return any plan that is technically or economically inadequate, infeasible, unlikely to be successful, or incompatible with any other area plan for that area that has been accepted by the panel, with an explanation of the reasons for the return with

suggested alternative proposals.

"(B) APPLICATIONS FOR ASSISTANCE.--To evaluate each application for assistance to determine whether the project to be carried out in any area is compatible with the area plan for the area in which the project described in the application is proposed, and either--

"(i) ACCEPT COMPATIBLE APPLICATIONS.--accept any application that the panel determines to be compatible with such area plan; or

"(ii) RETURN INCOMPATIBLE APPLICATIONS.--return any application that the panel determines to be incompatible with such area plan.

"(3) REVIEW AND RANK APPLICATIONS FOR ASSISTANCE UNDER DESIGNATED RURAL DEVELOPMENT PROGRAMS FROM AREAS WITH ACCEPTED AREA PLANS.--To review applications for assistance, that have been accepted pursuant to paragraph (2)(B), for projects to be carried out in any area the area plan for which has been accepted pursuant to paragraph (2)(A), taking into account the sources of assistance and related activities identified pursuant to section 360(b)(4)(A), and to rank, pursuant to a written policy and criteria, such applications in an order that takes into account--

"(A) in the case of business projects described in the application--

"(i) the extent to which a project would--

"(I) stimulate rural development by

creating new jobs of a permanent nature or retaining existing jobs by enabling new small businesses to be started, or existing businesses to be expanded by local area residents who own and operate the businesses;

"(II) contribute to the enhancement and the diversification of the local area economy;

"(III) generate or retain jobs for local area residents;

"(IV) be carried out by persons with sufficient managerial capability; and

"(V) be likely to become financially viable;

"(ii) the distribution of assistance to projects in as many areas as possible in the State, with sensitivity to geographical distribution;

"(iii) the technical aspects of the projects;

"(iv) the market potential and marketing arrangements for the projects; and

"(B) in the case of infrastructure and community facility projects described in the applications--

"(i) the extent to which a project would--

"(I) affect the quality of life for local area residents;

"(II) affect the health and safety of local area residents;

"(III) affect business productivity and efficiency;

"(IV) enhance commercial business activity; and

"(V) have the potential to promote long-term growth, including the increase in the number of persons residing in a rural community.

Each State rural economic development review panel shall rank each such business or infrastructure project based on the potential of such project to promote the growth of a rural community by improving the ability of a rural community to increase the number of persons residing in the rural community.

"(4) PRIORITY RANKING FOR PROJECTS ADDRESSING HEALTH EMERGENCIES.--To give priority in reviewing and ranking, notwithstanding the criteria established in paragraph (3), applications for projects designed to address a health emergency declared to be such by the appropriate Federal or State government agency.

"(5) RANKING FOR CONSOLIDATION AND ECONOMIES.--To give full consideration in reviewing and ranking applications for projects designed to promote economies and consolidations of water and waste disposal services, as authorized by section 306B, to the economies and efficiencies that would result from such applications, in addition to considering the other

criteria of paragraph (3).

"(6) TRANSMIT LIST OF RANKED APPLICATIONS.--To transmit to the State coordinator each list of applications ranked pursuant to paragraphs (3) and (4), and instruct the State coordinator to transmit the list to the Secretary.

"(7) ESTABLISHMENT AND REVIEW OF WRITTEN POLICY AND CRITERIA FOR EVALUATING AND RANKING APPLICATIONS.--To establish and annually review the written policy and criteria used by the panel in evaluating and ranking applications in accordance with this subsection to ensure that the policy and criteria are consistent with current rural development needs, and to provide for public input during the development of the initial policy and criteria.

"(c) MEMBERSHIP.--

"(1) VOTING MEMBERS.--The panel shall be composed of not more than 16 voting members who are representatives of rural areas--

"(A) 1 of whom is the Governor of the State or the designee of the Governor;

"(B) 1 of whom is the director of the State agency responsible for economic and community development or the designee of the director;

"(C) 1 of whom is appointed by a statewide association of banking organizations;

"(D) 1 of whom is appointed by a statewide association of investor-owned utilities;

"(E) 1 of whom is appointed by a statewide association of rural telephone cooperatives;

"(F) 1 of whom is appointed by a statewide association of non-cooperative telephone companies;

"(G) 1 of whom is appointed by a statewide association of rural electric cooperatives;

"(H) 1 of whom is appointed by a statewide association of health care organizations;

"(I) 1 of whom is appointed by a statewide association of existing local government-based planning and development organizations;

"(J) one of whom is appointed by the Governor from a statewide rural development organization which is not described in any of subparagraphs (C) through (I), but if no such statewide organization exists, there shall be no appointment made under this subparagraph and, notwithstanding paragraph (1), the panel shall be composed of not more than 15 voting members who are representatives of rural areas;

"(K) 1 of whom is appointed by a statewide association of counties;

"(L) 1 of whom is appointed by a statewide association of towns and townships, or by a statewide association of municipal leagues, as determined by the Governor;

"(M) 1 of whom is appointed by a statewide

association of rural water districts;

"(N) the State director of the Federal small business development center (or, if there is no small business development center in place with respect to the State, the director of the State office of the Small Business Administration);

"(O) the representative for that State of the Economic Development Administrationof the Department of Commerce; and

"(P) 1 of whom is appointed by the Secretary from among the officers and employees of the Federal government.

"(2) NON-VOTING MEMBERS.--The panel shall have not more than four non-voting members who shall serve in an advisory capacity and are representatives of rural areas--

"(A) one of whom is appointed by the dean, or the equivalent official, of the school or college of business of a college or university in the State selected by the Governor;

"(B) one of whom is appointed by the dean, or the equivalent official, of the school or college of engineering of a college or university in the State selected by the Governor;

"(C) one of whom is appointed by the dean, or the equivalent official, of the school or college of agriculture of a college or university in the

State selected by the Governor; and

"(D) the director of the State agency responsible for extension services for the State.

"(3) APPOINTMENT OF REPRESENTATIVES OF STATEWIDE ORGANIZATIONS BY THE GOVERNOR IN CERTAIN CASES.--If there is no statewide association described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) of the entities described in such subparagraph, the Governor of the State shall appoint an individual to fill the position or positions, as the case may be, described in the applicable subparagraph from among nominations submitted by local groups of such entities.

"(d) NOTIFICATION.--Each statewide organization that selects an individual to represent the organization on the panel shall have notified the Governor of the State of the selection.

"(e) QUALIFICATIONS OF PANEL MEMBERS APPOINTED BY THE GOVERNOR.--Each individual appointed to the panel by the Governor of the State shall be specially qualified to serve on the panel by virtue of the individual's technical expertise in business and community development.

"(f) VACANCIES.--A vacancy in the panel shall be filled in the manner in which the original appointment was made.

"(g) CHAIRPERSON AND VICE CHAIRPERSON.--The panel shall have elected 2 members of the panel who are not officers or employees of the United States to serve as the chairperson and vice chairperson of the panel for a term of 1 year.

"(h) NO COMPENSATION FOR FEDERAL MEMBERS.--Except as provided in section 360(c)(6), each member of the panel who is an officer or employee of the Federal Government may not receive any compensation or benefits, in addition to that which such officer or employee receives for performance of such officer or employee's regular employment, by reason of service on the panel.

"(i) RULES GOVERNING PANEL MEETINGS.--

"(1) QUORUM.--A majority of the members of the panel shall constitute a quorum for the purpose of conducting business of the panel.

"(2) FREQUENCY OF MEETINGS.--The panel shall meet not less frequently than quarterly.

"(3) FIRST MEETING.--The State coordinator shall schedule the first panel meeting.

"(4) RECORDS OF MEETINGS.--The panel shall keep records of the minutes of the meetings, deliberations, and evaluations of the panel, in sufficient detail to enable the panel to provide to interested persons the reasons for its actions.".

(b) CONFORMING AMENDMENT.--Section 306(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(3)) is amended by striking "and not inconsistent" and all that follows.

SEC. 202. GRANTS TO STATE REVOLVING FUNDS FOR LOANS TO VERY SMALL BUSINESS VENTURES.

(a) GRANT AUTHORITY.--On the request of a State rural economic development review panel specified in section 361 of the

Consolidated Farm and Rural Development Act, the Secretary may make a one-time grant to a State agency designated by the Governor of the State for the capitalization of a revolving fund to finance and facilitate startup or expansion of very small private businesses in the State, which shall be used in accordance with this section.

(b) AMOUNT OF GRANT.-- (1) GENERAL FORMULA.--The amount of the grant which may be made under subsection (a) to the revolving fund of a State in a fiscal year shall be an amount equal to--

(A) the aggregate amount available to the State in the fiscal year for designated rural development programs (as defined in section 360(b)(2) of the Consolidated Farm and Rural Development Act); multiplied by

(B) a number determined in accordance with paragraph (2).

(2) DETERMINATION OF PERCENTAGE.--

(A) IN GENERAL.--Subject to subparagraph (B), the State rural economic development review panel referred to in subsection (a) shall determine the number described in paragraph (1)(B).

(B) LIMITATION.--The number determined under subparagraph (A) shall not exceed 0.25.

(c) MANAGEMENT OF REVOLVING FUND.--The State agency designated by the Governor of the State pursuant to subsection (a) shall manage, operate, and provide for the fiscal integrity of the revolving fund described in subsection (a).

(d) LOANS FROM REVOLVING FUND.--(1) DETERMINATION OF

ELIGIBILITY OF APPLICANT FOR LOAN.--The State agency designated by the Governor of the State pursuant to subsection (a) shall--

(A) determine whether each applicant for a loan from the revolving fund described in subsection (a) is eligible for such a loan;

(B) transmit to the State rural economic development review panel referred to in subsection (a) any recommended application for a loan from the fund which has been submitted by an applicant who is eligible for such a loan; and

(C) make a loan from the fund to an applicant whose application is approved by the State rural economic development review panel referred to in subsection (a).

(2) REVIEW OF APPLICATION.--The State economic development review panel referred to in subsection (a) shall--

(A) review each application for a loan from the revolving fund described in subsection (a) which is transmitted to the panel pursuant to subsection (d); and

(B) determine whether or not to approve the application taking into account relevant factors, including--

(i) the extent to which the application is consistent with any area plan, as defined in section 360(b)(1) of the Consolidated Farm and Rural Development Act, accepted by such panel pursuant to section 361(b)(2) of such Act, for the area in which the project proposed by the application is to be implemented; and

(ii) the criteria set forth in section 361(b)(3) and (4) of the Consolidated Farm and Rural Development Act.

(e) USE OF FUND.--A State that receives a grant under subsection (a) shall use the grant to make loans at prevailing interest rates--

(1) to enterprises described in subsection (a), directly or through intermediaries which have established programs for providing financial and technical assistance to local businesses; and

(2) for the capitalization of intrastate revolving loan funds.

(f) INTERPRETATION OF SECTION.--This section shall not be construed to prevent a State which receives a grant made under this section from commingling in the revolving fund described in subsection (a) amounts from other sources.

(g) DEFINITION.--For the purposes of this section the term "very small business" means any business having fewer than 30 employees.

TITLE III--ENHANCEMENT OF EXISTING RURAL DEVELOPMENT PROGRAMS

SEC. 301. REA TECHNICAL ASSISTANCE UNIT.

Title I of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

"SEC. 17. TECHNICAL ASSISTANCE UNIT.

"(a) ESTABLISHMENT.--The Administrator shall establish a technical assistance unit to perform the duties described in subsection (b).

"(b) DUTIES.--The technical assistance unit established under subsection (a) shall--

"(1) provide advice and guidance to electric and telephone borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;

"(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this Act;

"(3) establish and administer various pilot projects through electric and telephone borrowers that the Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;

"(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

"(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such

borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts; and

"(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development.

"(c) FUNDING.--Not less than 3 percent of the salaries and expenses of the Rural Electrification Administration shall be made available during each fiscal year to the technical assistance unit established in this section.".

SEC. 302. DEFERMENT OF PAYMENT ON ECONOMIC DEVELOPMENT LOANS.

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended by--

(1) inserting "(a)" before "The Administrator"; and

(2) adding at the end the following new subsection:

"(b)(1) The Administrator shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this Act under circumstances described in this subsection, notwithstanding any limitation contained in section 12(a), except that such deferment shall not be permitted based on the determination of the Administrator of the financial hardship of the borrower.

"(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment

shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred; and

"(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, or similar community, business, or economic development assistance, the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

"(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower in community or economic development projects.

"(B) The amount of the deferment shall not exceed 50 percent of the cost of a community or economic development project financed under paragraph (2).

"(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments received during such fiscal year from all borrowers on direct and insured loans made under this Act and shall not exceed 5 percent of such total payments in each subsequent fiscal year.

"(D) At the time of a deferment, the borrower shall make a cushion of credit payment in an amount equal to the amount of the

payment deferred. Such payment shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 313.

"(4) The Administrator shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.".

SEC. 303. RURAL HOUSING FINANCING BY THE FARM CREDIT BANKS.

Section 1.11(b)(3) of the Farm Credit Act of 1971 (12 U.S.C. 2019(b)(3)) is amended by--

(1) striking "For" and inserting "(A) Except as provided in subparagraph (B), for"; and

(2) adding at the end the following new subparagraph:

"(B) The term 'rural areas' shall not be defined to include, for qualified loans in a pool with respect to which the securities are guaranteed by the Federal Agricultural Mortgage Corporation under section 8.6, any city or village having a population in excess of 20,000 inhabitants.".

SEC. 304. SECURITIZATION OF HOUSING LOANS.

(a) INCREASE IN SIZE OF COMMUNITIES SERVED.--Section 8.0(1)(B)(i) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa(1)(B)(i)) is amended by striking out "2,500" and inserting

"20,000".

(b) CLARIFICATION OF EXISTING LAW.--Section 8.8(b)(5) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa-8(b)(5)) is amended by inserting "except for the residential dwellings described in section 8.0(1)(B)," before "contain".

SEC. 305. WATER AND WASTE LENDING BY BANKS FOR COOPERATIVES.

(a) AUTHORIZATION.--Section 3.7 of the Farm Credit Act of 1971 (12 U.S.C. 2128) is amended by adding at the end the following:

"(f) The banks for cooperatives are authorized to make and participate in loans and commitments, and to extend other technical and financial assistance for the purpose of the installation, expansion, or improvement of water facilities or systems or waste disposal facilities, to--

"(1) cooperatives formed specifically for the purpose of establishing or operating such systems; and

"(2) rural municipalities having populations not in excess of 20,000 inhabitants, if the proceeds from such loans are used to expand existing water or waste facilities in such municipalities, to enhance the economic development of such municipalities, or to address health-related problems of the inhabitants of such municipalities.".

(b) CONFORMING CHANGES.--Section 3.8(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1) is amended by adding at the end the following:

"(D) Any cooperative or municipality described in

section 3.7(f).".

SEC. 306. AMENDMENTS TO THE BUSINESS AND INDUSTRY LOAN PROGRAM.

Section 310B(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a) is amended by--

(1) inserting before the first sentence the following: "The Secretary may also make and insure loans to small and very small rural businesses to assist in the startup and expansion of such businesses that have presented an application for a business project meeting the criteria established under section 361(b)(3)(A) to the State Rural Economic Development Review Panel.";

(2) striking "$25,000,000" and inserting "$1,000,000"; and

(3) by adding at the end the following: "The primary purpose of the program established under this section shall be to assist small and very small rural businesses, as provided in the first sentence of this subsection. For the purposes of this section, the term 'very small business' means a business having fewer than 30 employees; and the term 'small business' shall not be defined in such a manner as to be inconsistent with the definition of such term established by the Small Business Administration pursuant to 15 U.S.C. 632.".

SEC. 307. WATER OR WASTE DISPOSAL LOANS TO BENEFIT RURAL BUSINESSES.

Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting

"rural businesses," after "farm laborers,".

SEC. 308. RURAL WASTEWATER TREATMENT CIRCUIT RIDER PROGRAM.

(a) ESTABLISHMENT.--The Secretary shall establish a national rural wastewater circuit rider grant program that shall be modeled after the existing National Rural Water Association Rural Water Circuit Rider Program that receives funding from the Farmers Home Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.--There is authorized to be appropriated $4,000,000 each fiscal year to carry out the program established under subsection (a).

TITLE IV--RURAL DEVELOPMENT INFORMATION SHARING AND TECHNOLOGY TRANSFERS

SEC. 401. RURAL DEVELOPMENT INFORMATION SHARING.

Section 306(a)(12)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(12)) is amended by inserting ", that shall be located in the National Agricultural Library," after "system".

SEC. 402. RURAL TECHNOLOGY GRANTS.

(a) AUTHORIZATION.--Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by striking subsection (f) and inserting the following:

"(f)(1) The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling

such institutions to establish and operate centers for rural technology development.

"(2) Any nonprofit institution seeking a grant under paragraph (1) shall submit to the Secretary an application containing a plan for the establishment and operation by such institution of a center for rural technology development. The Secretary may approve such application if such plan contains the following:

"(A) A provision that substantiates that such centers will effectively serve rural areas in the United States.

"(B) A provision that the primary objective of such center will be to improve the economic condition of rural areas by promoting the development (through technological innovation) and the adaptation of existing technology and commercialization of--

"(i) new services and products that can be produced or provided in rural areas; and

"(ii) new processes that can be utilized in the production of products in rural areas.

"(C) A description of the activities which such center will carry out to accomplish such objective. Such activities may include the following:

"(i) Programs for technology research, investigations, and basic feasibility studies in any field and discipline for the purpose of generating principles, facts, technical knowledge, new technology,

or other information that may be useful to rural industries, agribusinesses, and other persons in rural areas served by such centers in the development and commercialization of new products in processes.

"(ii) Programs for the collection, interpretation, and dissemination of existing principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, agribusinesses, and other persons in rural areas served by the center in the development and commercialization of new products and processes.

"(iii) Programs providing training and instruction for individuals residing in rural areas served by the center with respect to the development (through technological innovation and adaptation of existing technology) and commercialization of new products and processes.

"(iv) Programs providing loans and grants to individuals in rural areas served by the center and to small businesses in rural areas served by the center for purposes of generating, evaluating, developing, and commercializing new products and processes.

"(v) Programs providing technical assistance and advisory services to individuals, small businesses, and industries in rural areas served by the center for purposes of developing and commercializing new products

and processes.

"(D) A description of the contributions which such activities are likely to make to the improvement of the economic conditions of the rural areas for which such center will provide services.

"(E) Provisions that such center, in carrying out such activities will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

"(F) Provisions that such center--

"(i) will consult with any college or university administering any program under title V of the Rural Development Act of 1972 in the State in which such center is located; and

"(ii) will cooperate with such college or university in the coordination of such activities and such program.

"(G) Provisions that such center will take all practicable steps to develop continuing sources of financial support for such center, particularly from sources in the private sector.

"(H) Provisions for--

"(i) monitoring and evaluating such activities by the institution operating such center; and

"(ii) accounting for money received by such

institution under this section.

"(I) Provisions that such center will provide for the optimal application of such technology in rural areas, especially those areas adversely affected by adverse agricultural economic conditions, through the establishment of demonstration projects and subcenters for rural technology development where the technology can be implemented by communities, community colleges, businesses and other institutions, to improve local economic conditions.

"(3) Grants made under paragraph (1) shall be made on a competitive basis. In making grants under paragraph (1), the Secretary shall give preference to grant applications providing for the establishment of centers for rural technology development that--

"(A) can demonstrate the capability to transfer for practical application in rural areas the technology generated at such centers for rural areas and the ability to commercialize products and processes in such areas;

"(B) will effectively serve in rural areas that have--

"(i) few rural industries and agribusinesses;

"(ii) high levels of unemployment or underemployment;

"(iii) high rates of out migration of people, businesses, and industries; and

"(iv) low levels of per capita income; and

"(C) will contribute the most to the improvement of

economic conditions of rural areas.

"(4) As used in this subsection--

"(A) The term 'nonprofit institution' means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(B) The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

"(C) The term 'rural area' means a county with an urban population of fewer than 20,000 individuals.

"(g) In carrying out subsection (f), the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment or underemployment of persons residing in economically distressed rural areas which the Secretary determines have a substantial need for such assistance. Such assistance shall include planning and feasibility studies, management and operational assistance, and studies evaluating the needs for and development potential of projects which increase employment and improve economic growth in such areas.

"(h) The Secretary may make grants to defray not to exceed 75 percent of the administrative costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under subsection (f). For purposes of determining the

non-Federal share of such costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including but not limited to premises, equipment, and services.".

(b) Limitation on Authorization of Appropriations.--To carry out section 310B(f) and (h) of the Consolidated Farm and Rural Development Act, there are authorized to be appropriated to the Secretary not to exceed $50,000,000 for each of the fiscal years 1990, 1991, and 1992.

SEC. 403. CONFORMING AMENDMENTS.

(a) Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended--

(1) in the first sentence--

(A) by striking "For the purposes of this title and" and inserting "In accordance with section 359, for purposes of this title, and"; and

(B) by inserting before the period ", or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office";

(2) in subsection (d), by striking "under any of its programs" and inserting ", or the Rural Development Administration under any of their programs,"; and

(3) in subsections (h) and (i), by inserting "Rural Development Administration under this title or by the" before "Farmers Home Administration" each place it appears.

(b)(1) Section 331A of such Act (7 U.S.C. 1981a) is amended

by inserting "or by the Rural Development Administration," immediately after "Farmers Home Administration".

(2) Section 335 of such Act (7 U.S.C. 1985) is amended--

(A) in subsection (a), by inserting "or the Rural Development Administration" after "Farmers Home Administration"; and

(B) in subsection (c)(1), by inserting "or the provisions of this title administered by the Rural Development Administration or" after "such provisions hereof".

(3) Section 338(a) of such Act (7 U.S.C. 1988(a)) is amended by inserting "or the Rural Development Administration" after "Farmers Home Administration".

TITLE V--RURAL BUSINESS AND LEADERSHIP TRAINING

SEC. 501. EXTENSION SERVICE RURAL BUSINESS AND LEADERSHIP TRAINING PROGRAM.

(a) Establishment of program.--Section 1 of chapter 79 of the Act of May 8, 1914 (7 U.S.C. 341) is amended by--

(1) inserting "(a)" before the existing section; and

(2) adding at the end the following:

"(b)(1) The Secretary shall establish a national program, to be administered by the Federal Extension Service, to provide

rural citizens with training, technical and management assistance regarding, and educational opportunities to enhance their knowledge of--

"(A) the potential for beginning new businesses through entrepreneurship;

"(B) the procedures necessary to establish new businesses in rural areas;

"(C) self-employment opportunities in rural areas;

"(D) the uses of modern telecommunications and computer technologies;

"(E) business and financial planning; and

"(F) such other training, assistance, and educational opportunities as the Secretary determines are necessary to carry out the program established under this subsection.

"(2) The program established pursuant to this subsection shall provide assistance designed to increase the leadership abilities of residents in rural areas. Such assistance shall include--

"(A) information relative to the development of community goals;

"(B) instruction regarding the methods by which state or Federal funding for rural development projects might be obtained;

"(C) instruction regarding the successful writing of applications for loan or grant funds, from government and private sources;

"(D) an updated listing of state, Federal, and other economic development programs available to rural areas; and

"(E) such other training, information, and assistance as the Secretary determines necessary to increase the leadership abilities of residents in rural areas.

"(3) In order to facilitate the program established under this subsection, the extension service in each State should develop, maintain, and provide to each community, and make accessible to any other interested party, a catalog of available state, Federal, or private programs that provide leadership training or other information or services similar or complimentary to the training or services required by this subsection. Such catalog should include, at a minimum, the following entities within the State that provide such training or services:

"(A) any rural electric cooperative;

"(B) any nonprofit community development corporation;

"(C) any economic development district that serves a rural community;

"(D) any nonprofit subsidiary of any private entity;

"(E) any nonprofit organization whose principal purpose is to promote economic development in rural areas.

"(F) any investor or publicly owned electric utility;

"(G) any small business development center or small business investment company;

"(H) any regional development organization;

"(I) any vocational or technical school;

"(J) any Federal, State or local government agency or department; and

"(K) any other entity that the Secretary deems appropriate.

The extension service in each State should include in the catalog information relative to the specific training or services provided by each entity in the catalog.

"(4) The Secretary shall provide training for extension service employees to ensure that such employees understand the availability of rural development programs in their respective States; and the availability of Federal Extension Service staff qualified to provide to rural citizens and to State extension staff training and materials for technical, management, and educational assistance required by this subsection.".

(b) Non-duplication.--The Secretary shall ensure that assistance provided under the amendment made by this section does not duplicate services or assistance provided by other federal programs or the private sector.

TITLE VI--RURAL ECONOMIC DEVELOPMENT

RESEARCH

Subtitle A--Research

SEC. 601. RESEARCH ON NONTRADITIONAL USES OF AGRICULTURAL

COMMODITIES.

The Secretary shall establish a program of competitive grants, to be administered through the Cooperative State Research Service in conjunction with that agency's activities required under subtitle C of title XIV of the Food Security Act of 1985 (7 U.S.C. 4701 et seq.), for the purpose of conducting research on non-food, non-feed uses of agricultural commodities. The Secretary shall give priority in the awarding of grants under this section to research projects that the Secretary determines have the potential for developing new products from or processes for agricultural commodities that may be commercially implemented by small businesses.

SEC. 602. AUTHORIZATION OF RURAL DEVELOPMENT RESEARCH COMPETITIVE GRANTS.

The Secretary shall establish a program of competitive grants, to be administered through the Cooperative State Research Service, for the purpose of encouraging research and analysis of the social, economic, and other factors influencing the economic vitality of rural areas. Priority in the award of such grants shall be given to projects designed to research methods by which the social and economic vitality of rural areas can be enhanced.

SEC. 603. DEMONSTRATION PROJECTS.

The Secretary shall establish a program of competitive grants to rural areas to serve as demonstration areas. In awarding such grants the Secretary shall consider--

(1) whether such rural area demonstrates the ability to

supplement the grant funds provided under this section with other funds from State, local, or private sources;

(2) whether such rural area demonstrates the ability to use the grant funds to increase employment in the area; and

(3) whether such rural area can successfully serve as a demonstration area to share the results of the project to the benefit other rural areas in the region.

Subtitle B--Research Commercialization

SEC. 611. SHORT TITLE.

This subtitle may be cited as the "Agricultural Research Commercialization Act of 1989".

SEC. 612. FINDINGS AND PURPOSE.

(a) Findings.--Congress finds that--

(1) many of the emerging new ideas, products, and processes resulting from agricultural research have never been commercialized because of the high initial financing costs and high risk; and

(2) the careful targeting of financial assistance to entrepreneurs for the commercialization of new industrial uses of agricultural and forestry products will be a cost effective means of stabilizing the agricultural sector and redeveloping the rural economy.

(b) Purpose.--It is the purpose of this subtitle through the Corporation established pursuant to section 614--

(1) to commercialize new nonfood, nonfeed uses for

traditional and new agricultural crops in order to create jobs, to enhance the economic development of the rural economy, and to diversify markets for raw agricultural and forestry products;

(2) to encourage cooperative development and marketing efforts among manufacturers, financiers, universities, and private and government laboratories in order to accelerate the commercialization of new industrial uses for agricultural and forestry products; and

(3) to direct, to the maximum extent possible, commercialization efforts toward the development of new products from crops that can be raised by family-sized agricultural producers.

SEC. 613. DEFINITIONS.

For purposes of this subtitle:

(1) Assistant Secretary.--The term "Assistant Secretary" means the Assistant Secretary of Agriculture for Science and Education.

(2) Board.--The term "Board" means the Board of Directors established pursuant to section 618.

(3) Commercialization.--The term "commercialization" or "commercialize" includes--

(A) activities associated with the development of prototype products or manufacturing plants;

(B) the application of technology and techniques to the development of industrial production; and

(C) the market development of new industrial uses of new and traditional agricultural and forestry products and processes that will lead to the creation of goods and services that may be marketed for profit.

(4) Corporation.--The term "Corporation" means the Agricultural Research Commercialization Corporation established in section 614.

(5) Host institution.--The term "host institution" means an entity that is located in the region that is--

(A) a university or other institution of higher education;

(B) an Agricultural Research Service laboratory;

(C) a State Agricultural Experiment Station;

(D) an Extension Service facility; or

(E) another organization that is involved in the development or commercialization of new industrial uses for agricultural commodities, or is involved in rural economic development.

(6) Regional Center.--The term "Regional Center" means a Center established pursuant to section 616.

(7) Secretary.--The term "Secretary" means the Secretary of Agriculture.

SEC. 614. ESTABLISHMENT OF CORPORATION.

(a) In General.--There is established within the Department of Agriculture a body corporate to be known as the "Agricultural Research Commercialization Corporation".

(b) Central Office.--The Secretary shall provide facilities for the principal office of the Corporation within the National Agricultural Library.

(c) Establishment of Regional Centers.--The Corporation shall establish a minimum of four and a maximum of nine Regional Centers in the United States, as provided for in section 616.

SEC. 615. POWERS OF THE CORPORATION.

(a) Nonprofit Corporate Powers.--To carry out this subtitle, the Corporation has the powers conferred on a nonprofit corporation under the District of Columbia Nonprofit Corporation Act.

(b) General Powers.--In addition to any specific power granted to the Corporation elsewhere in this subtitle, the Corporation shall have the power--

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental agencies, except that the Corporation shall not provide any financial assistance unless specifically permitted under this subtitle;

(3) to lease, purchase, accept gifts or donation of, or otherwise to acquire, and to use, own, hold, improve, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and to be sued in its corporate name and to

complain and defend in any court of a competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which actions it will be represented by the Attorney General;

(6) subject to this subtitle, to select, employ, and fix the compensation of any such officers, employees, attorneys and agents as shall be necessary for the transaction of the business of the Corporation;

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may consider necessary or desirable;

(8) to indemnify Directors and officers of the Corporation, as the Board of Directors may consider necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out this subtitle and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to obtain the services and fix the compensation of consultants;

(11) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(12) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation, to carry out this section, and to the exercise of its powers, purposes, functions, duties, and authorized activities.

(c) Voluntary Services.--Notwithstanding section 1342 of title 31, United States Code, the Corporation is authorized to accept and utilize voluntary and uncompensated services.

(d) Government Corporation Control Act.--The Corporation shall be considered a wholly-owned corporation for the purposes of the Government Corporation Control Act (31 U.S.C. 9101 et seq.).

SEC. 616. REGIONAL CENTERS.

(a) Location.--

(1) In general.--Each Regional Center established by the Corporation pursuant to section 614 shall be located in a different State, reflective of regional climatic conditions, rural economic stress, and the qualifications of the applicant to serve as the host institution for a Regional Center and to carry out the duties of the Corporation.

(2) Competitive awarding.--Host institutions desiring to have a Regional Center located in their region shall submit a proposal for such location to the Board. The Board shall

determine the location of such centers based on a competitive review of the contents of such proposals.

(3) Host institutions.--Each Regional Center shall be located at a host institution in the region.

(4) Matching of funds.--

(A) In general.--Each candidate host institution submitting a proposal for a Regional Center under this section shall provide assurances--

(i) that adequate funds or in-kind support (including office space, equipment and staff support) shall be provided to match the amount of funds used for administrative costs that are provided by the Federal government under this subtitle;

(ii) that it is qualified to carry out the activities required of a Regional Center;

(iii) concerning such other factors as the Corporation shall determine appropriate.

(B) Applicants.--The matching funds required under subparagraph (A) may be provided by a consortia that may include the host institution and other public or private entities existing within various regions of the United States, including State and local governments, entities created by State and local governments, charitable organizations, public and private universities and other institutions of higher

education, cooperatives, and economic development organizations.

(b) Activities.--Each Regional Center shall carry on activities provided for in this subtitle and such other activities as the Board shall from time to time delegate to such Centers.

(c) Regional Director.--Each Regional Center shall be headed by a full-time Regional Director who shall--

(1) be selected by the Board;

(2)(A) have a scientific or engineering background; or

(B) have experience in the development of new products or processes in the public or private sector.

(d) Advisory Councils.--(1) Appointment.--The Board shall appoint an Advisory Council for each Regional Center. Such Council shall advise the Regional Director concerning all applications for assistance as described in section 625.

(2) Composition.--An Advisory Council shall be comprised of representatives of the public sector, the financial sector, the private business community, State and local governments, educational institutions, private and Federal laboratories, the agricultural sector, scientists, and engineers. An Advisory Council shall be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2).

(3) Duties.--(A) Primary duty.--The primary duty of the members of an Advisory Council shall be to review or coordinate the review of the technical, engineering, financial, and

managerial soundness and marketing potential of the applications for assistance received under this subtitle.

(B) Monitoring activities.--An Advisory Council may assist a Regional Director in monitoring the progress of ongoing projects by providing technical and business counseling when needed.

SEC. 617. ACTIVITIES OF THE REGIONAL CENTERS.

A Regional Center shall--

(1) encourage interaction among private and Federal laboratories, National Science Foundation centers, Department of Agriculture research programs, and other Federal resources, State and local regional economic development programs, universities, colleges, the private sector and the financial community, for the purpose of evaluating and commercializing new, nonfood, nonfeed uses of agricultural, including forestry, products;

(2) identify broad areas where commercialization of new products and processes can contribute to the economic growth in rural areas of the United States, through the development of new, nonfood, nonfeed uses for agricultural, including forestry, products by private companies and businesses;

(3) provide technical assistance and related business and financial counseling for small American businesses to commercialize new, nonfood, nonfeed uses of agricultural, including forestry, products;

(4) identify new nonfood, nonfeed products and processes

that are worthy of financial assistance;

(5) make use of existing programs in scientific, engineering, technical and management education that will support the accelerated commercialization of new, nonfood, nonfeed products and processes using agricultural, including forestry, products;

(6) advise the Corporation on the viability of specific proposals submitted for financial assistance and on the type of assistance, if any, to be provided; and

(7) coordinate their activities with the Small Business Development Centers authorized by section 21 of the Small Business Act (15 U.S.C. 648).

SEC. 618. CORPORATE BOARD OF DIRECTORS.

(a) Membership.--(1) In general.--The Board shall consist of nine members, who shall be citizens of the United States, of which--

(A) one member shall be the Assistant Secretary;

(B) one member shall be the Under Secretary of Agriculture for Small Community and Rural Development; and

(C) seven members shall be appointed by the Secretary.

(2) Experience.--In appointing the members to the Board under paragraph (1), the Secretary shall assure that the members appointed under subparagraph (C) are representative of the agricultural, scientific, financial, and managerial community.

(3) Chairperson.--The Board shall elect a Chairperson from among the members of the Board referred to in paragraph (1).

(4) Other employment.--A Director may hold a position in the private sector at the same time as such Director is serving on the Board.

(b) Term of Office.--

(1) In general.--A member of the Board appointed under subsection (a)(1)(C) shall be appointed for a term of 5 years.

(2) Initial members.--The initial members of the Board appointed under subsection (a)(1)(C) shall serve as follows:

(A) Three members shall serve a term of 4 years.

(B) Three members shall serve a term of 3 years.

(C) One member shall serve a term of 2 years.

(c) Oath.--Before assuming office, each member of the Board shall take an oath to faithfully discharge the duties of the individual's position as a member of such Board.

(d) Meetings, Quorum, Actions.--(1) Meetings.--The Board shall meet in accordance with the bylaws of the Corporation, and at any time pursuant to the call of the Chairperson, but the Board shall not meet less than twice annually to review applications for assistance. For the purpose of section 552b of title 5, United States Code, the Board shall be considered to be an agency.

(2) Quorum and actions.--A majority of the Board members shall constitute a quorum. Any action by such Board shall require a majority vote of all members of the Board.

SEC. 619. POWERS AND DUTIES OF CORPORATE BOARD.

(a) Powers.--(1) Vesting.--The powers of the Corporation shall be vested in the Board.

(2) Officers.--The Board shall establish the offices and appoint the officers of the Corporation (which may include a General Counsel, Treasurer, and an Executive Director) and define the duties of such offices.

(b) Delegation of Authority.--(1) Corporate Board.-The Board may, by resolution, delegate to the Chairperson and any other member of the Board any function, power, or duty assigned to the Corporation under this section other than those expressly vested in the Board.

(2) Chairperson.--The Chairperson may, by written instrument, delegate such function, power, or duty as is assigned to the Chairperson pursuant to this section, to such other member of the Board, director, officer, or employee of the Corporation as the Chairperson considers appropriate.

(c) Delegation Not Permitted.--(1) In general.--The Secretary and any other officer or employee of the United States shall not make any delegation to the Board, the Chairperson, or the Corporation of any power, function, or authority not expressly authorized by this subtitle, except where such delegation is pursuant to an authority in law that expressly makes reference to this subtitle.

(2) Reorganization act.--Chapter 9 of title 5, United States Code, shall not apply to authorize the transfer to the

Corporation of any power, function, or duty.

(d) Bylaws.--The Board shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(e) Organization.--The Board shall provide a system of organization to fix responsibility and promote efficiency within the Corporation.

(f) Government Employment Laws.--Members of the Board, officers, and employees of the Corporation shall be subject to all laws of the United States relating to governmental employment, including the provisions of title 5, United States Code, relating to compensation.

(g) Political Qualifications.--No political test or qualifications shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation.

SEC. 620. COMPENSATION.

(a) Corporate Board.--Members who serve on the Board, except for the Under Secretary identified in section 618(a)(1)(B) and the Assistant Secretary, shall receive compensation at a rate equivalent to the daily rate paid under Level II of the Executive Schedule under section 5312 of title 5, United States Code, as well as reasonable expenses incurred in carrying out the business of the Corporation, as approved by the Board.

(b) Officers and Employees.--The Board may, if determined necessary and approved by the Secretary, fix the rate of

compensation of no more than one officer position or other position at a rate or rates in excess of that prescribed for Level II of the Executive Schedule under section 5312 of title 5, United States Code.

SEC. 621. FINANCIAL DISCLOSURE AND CONFLICTS OF INTEREST.

(a) Financial Disclosure.--The Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.) shall apply to the Directors and all of the other officers and employees of the Corporation as if such individuals were Federal employees.

(b) Conflicts of Interest.--(1) In general.--Except as permitted in paragraph (3), no member of the Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to the knowledge of the member, such member, spouse or minor child of such member, partner or organization (other than the Corporation) in which such member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom such member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Removal.--Action by a member of the Board that is contrary to the prohibition contained in paragraph (1) shall be cause for removal of such member pursuant to the powers of the Corporation in section 615, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the member or officer participated.

(3) Informed consent.--The prohibition contained in paragraph (1) shall not apply if--

(A) the member of the Board--

(i) advises the Board of the nature of the particular matter in which such member proposes to participate in; and

(ii) makes a full disclosure of such financial interest, prior to any participation;

(B) the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of such member's services to the Corporation in that matter; and

(C) the member involved does not participate in the determination under subparagraph (B).

SEC. 622. AUTHORIZATION OF ADMINISTRATIVE EXPENDITURES.

(a) Corporate Expenditures.--In each fiscal year the Corporation is authorized to expend amounts for--

(1) reasonable and necessary administrative expenses, not to exceed 5 percent of amounts made available in any fiscal year; and

(2) generic studies and specific reviews of individual proposals for financial assistance, which shall not exceed 3 percent of amounts made available in any fiscal year.

(b) Administrative Expenditures.--For purposes of this section, administrative expenditures shall include--

(1) all ordinary and necessary expenses (including all

compensation for personnel and consultants, expenses for computer usage, or space needs of the Corporation and similar expenses); and

(2) reimbursement to members of the Board for reasonable expenses that are incurred in connection with the service of the Corporation.

(c) Limitation.--Expenditures authorized under subsection (a)(2) shall not be available--

(1) for administrative expenses;

(2) for the reimbursement of governmental agencies for the salaries of personnel of such agencies detailed to the Corporation; or

(3) for operating expenses.

(d) Real Property.--Funds authorized for administrative expenditures shall not be available for the acquisition of real property.

SEC. 623. CRIMINAL SANCTIONS.

Section 1905 of title 18, United States Code, shall apply--

(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as if it were a Federal agency.

SEC. 624. FINANCIAL ASSISTANCE.

(a) In General.--The Corporation, through the Regional Directors, in accordance with the criteria provided for in section 625, may provide, to projects for the commercialization

of new, nonfood, nonfeed products using agricultural, including forestry, commodities, financial assistance in the form of--

(1) loans made or insured by the Corporation (backed by the full faith and credit of the United States);

(2) interest subsidy payments made by the Corporation to the lender equal to an amount determined pursuant to an agreement between the Corporation, the lender, and the borrower;

(3) venture capital invested by the Corporation in the form of a convertible debenture;

(4) repayable grants that are matched by private, State or local public funds and that are repaid as agreed in a contract between the Corporation and entity; and

(5) umbrella bonding.

(b) Discretionary funds.--The Board may establish a discretionary fund for each Regional Center of not more than 1 percent of the amounts made available to carry out this section. Such funds shall be used for activities related to financial assistance described under this section and section 625. Every 6 months, a Regional Director shall prepare and submit to the Board a report that accounts for expenditures made from this fund.

(c) Oversight of projects.--(1) In general.--The Corporation shall monitor the progress of the projects that receive financial assistance under this Act.

(2) Type of oversight.--Such oversight may include on-site reviews, written reports, and supportive business and technical

counseling, as needed. The Director may call on the Advisory Council to provide advice with respect to such monitoring.

(3) Demonstration by applicants.--The Corporation may require that applicants demonstrate that the use of financial assistance is in compliance with the contractual agreement.

SEC. 625. ELIGIBILITY CRITERIA FOR FINANCIAL ASSISTANCE.

(a) Eligible Entities.--(1) In general.--To obtain financial assistance from the Corporation, an entity shall--

(A) be a university or other institution of higher education, a nonprofit organization, a cooperative, or a small business concern; and

(B) file an application with the Regional Director of a Regional Center.

(2) Definitions.--As used in paragraph (1)--

(A) Nonprofit organization.--The term "nonprofit organization" means an organization that is--

(i) described in section 501(c) of the Internal Revenue Code of 1986; and

(ii) exempt from taxation under section 501(a) of such Code.

(B) Small business concern.--The term "small business concern" shall have the same meaning given such term in section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and in implementing rules issued by the Administrator of the Small Business Administration under such section.

(b) Application.--An application submitted to the Regional Director under subsection (a) shall--

(1) describe the proposal of the entity for the commercialization of a new product consistent with this section, including documentation that such proposal is--

(A) scientifically sound

(B) technologically feasible and

(C) marketable;

(2) provide documentation that adequate private sector funding ~~is~~ not available, but that the applicant has the ability to obtain matching funds from the public or private sectors;

(3) provide documentation that the applicant's own resources, including time and money, have been invested in the project;

(4) provide documentation that the product or process has broad application and has the potential to be commercially viable without continual assistance;

(5) provide documentation that the proposal will be carried out with broad participation by representatives of the sectors described in section 616(d)(2);

(6) provide documentation that the applicant possesses sufficient managerial ability to conduct the project, or established relationship exists between the applicant and other entities, to give the applicant access to private business assistance;

(7) provide assurances of legal compliance by the applicant with the terms and conditions for the receipt of assistance under this subtitle; and

(8) provide assurances that the proposal will result in the creation of new jobs in rural areas.

(c) Selection Criteria.--(1) In general.--The Board shall give priority to--

(A) applications that create jobs in economically distressed rural areas;

(B) applications that have State or local government financial participation; and

(C) applications that have private financial participation.

(2) Additional criteria.--The Board shall establish additional criteria for use in selecting among equivalent applications. Such criteria shall emphasize--

(A) the quantity and quality of jobs that will be created;

(B) the amount of the financial participation by State or local governments or private entities;

(C) the qualifications of the management to be used in the project;

(D) the level of market demand for the product to be marketed; and

(E) the level of returns to the revolving fund established under section 627.

(d) Application Review Process.--(1) In general.--A Regional

Director shall work in consultation with an Advisory Council to review and evaluate the proposals submitted to the Regional Center.

(2) Advisory Ccouncil.--The Advisory Council shall review proposals submitted to the Regional Centers. The Advisory Council shall, by majority vote, make a nonbinding recommendation on the proposal to the Regional Director.

(3) Regional Director.--The Regional Director, on consideration of the Advisory Council's recommendation and any other comments received from interested parties, shall make and submit the Director's recommendation to the Board along with the recommendation of the Advisory Council.

(4) Corporate board.--The Board shall, by majority vote, make the final decision on whether and how to provide assistance to the applicant.

(5) Confidentiality.--The Board shall establish procedures that shall ensure the confidentiality of applications submitted under this section.

(e) Notice of Applications.--The Board shall publish in the Federal Register a notice that it is receiving applications for assistance under this subtitle not later than 30 days prior to the period established for receipt of such applications.

SEC. 626. REPAYMENT OF FINANCIAL ASSISTANCE.

(a) Repayment.--An entity receiving financial assistance under this subtitle shall repay the Corporation in accordance with the contract between the Corporation and the entity.

(b) Waivers.--The Board may waive the repayment of financial assistance for such reasonable grounds as the Board may from time to time determine.

(c) Maximum Repayment Time Limit.--Financial assistance made available under this subtitle may not have a repayment period in excess of 12 years.

SEC. 627. REVOLVING FUND.

(a) Establishment.--There is established a revolving fund to be administered by the Board.

(b) Contents.--Funds received by the Regional Centers under section 626 as a result of any financial assistance made pursuant to this subtitle, shall be converted into and become a part of the revolving fund established under subsection (a).

(c) Use of Fund.--The revolving fund established under subsection (a) shall be available, as provided in appropriations Acts, to provide financial assistance under section 624, and to pay for the costs of operation as provided for in section 615.

(d) Contributions.--Amounts received from contributions from State tax check-off programs, or other independent sources, may also become part of the revolving fund established under this section. Such amounts may be specified by the donor for any form of financial assistance for a project in a particular region or State.

SEC. 628. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle for each of the fiscal years

1991 through 1999.

TITLE VII--RURAL ELECTRIFICATION

PROVISIONS

SEC. 701. SHORT TITLE; AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936.

(a) SHORT TITLE.--This title may be cited as the "Rural Telecommunications Improvements Act of 1989".

(b) AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936.--Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Rural Electrification Act of 1936.

SEC. 702. FINDINGS; STATEMENT OF POLICY.

(a) FINDINGS.--The Congress finds that--

(1) making modern telecommunications technology and services available in rural areas in the United States promotes economic development and improves the quality of life in rural areas; and

(2) the efficient operation of the Rural Telephone Bank and the Rural Electrification Administration telephone loan programs is essential to the continued development of the telecommunications infrastructure in rural areas in the

United States.

(b) STATEMENT OF POLICY.--It is the policy of the Congress that the Rural Telephone Bank and the Rural Electrification Administration make loans that facilitate the development and enhancement of the rural telecommunications infrastructure in order to make modern telecommunications technology and services available at reasonable rates to the greatest practicable number of people in rural areas in the United States.

Subtitle A--Amendments Relating to Title I of the 1936 Act

SEC. 711. GENERAL PROHIBITIONS.

Title I (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

"SEC. 18. GENERAL PROHIBITIONS.

"The Administrator and the Governor of the telephone bank shall not--

"(1) deny or reduce any loan or loan advance under this Act based on a borrower's level of general funds; or

"(2) make any loan or grant, or provide any guarantee, under this Act, for electric service to any borrower of a telephone loan, or for telephone service to any borrower of an electric loan, unless--

"(A) the borrower has obtained a certificate of convenience and necessity from, or otherwise obtained the consent of, the State regulatory authority with jurisdiction over the provision of such service;

"(B) the Administrator or the Governor, as the case

may be, has determined (and set forth the reasons therefor in writing) that such loan or grant will not be used to duplicate any lines, facilities, or systems; and

"(C) the communications equipment, system, or other facilities are to be used by the electric borrower for functions relating to the many operations of an electric borrower in operating a rural electric system, including, but not limited to, loan control, dispatching, transmission of electric system data, and any other activity generally relating to or necessary in the operation of an electric system.".

Subtitle B--Amendments Relating to Title II of the 1936 Act

SEC. 721. NONDUPLICATION OF TELEPHONE FACILITIES.

(a) IN GENERAL.--The last sentence of section 201 (7 U.S.C. 922) is amended to read as follows: "The Administrator and the Governor of the telephone bank shall not make or guarantee a loan, or make a grant, for telephone purposes under this Act if the loan, guarantee, or grant would result in the duplication of lines, facilities, or systems that provide reasonably adequate service. For purposes of this Act, the term 'duplication' does not include upgrading.".

(b) CONFORMING AMENDMENT.--Section 408(b)(5) (7 U.S.C. 948(b)(5)) is amended by striking the 2nd sentence.

SEC. 722. UPDATED DEFINITION OF TELEPHONE SERVICE.

Section 203(a) (7 U.S.C. 924(a)) is amended--

(1) by inserting "or reception" after "transmission";

(2) by inserting "data," after "voice,"; and

(3) by striking "through the use of electricity between the transmitting and receiving apparatus" and inserting "by wire, fiber, radio, light, or other visual or electromagnetic means".

SEC. 723. LOAN FEASIBILITY.

Title II (7 U.S.C. 922 et seq.) is amended by adding at the end the following:

"SEC. 204. LOAN FEASIBILITY.

"The Administrator and the Governor of the telephone bank may not, as a condition of making a telephone loan to an applicant therefor, require the applicant to--

"(1) increase the rates charged to the applicant's customers or subscribers; or

"(2) increase the applicant's ratio of--

"(A) net income or margins before interest; to

"(B) the interest requirements on all of the applicant's outstanding and proposed loans.".

SEC. 724. ENCOURAGEMENT OF INVESTMENT BY TELEPHONE BORROWERS IN RURAL DEVELOPMENT PROJECTS.

Title II (7 U.S.C. 922 et seq.) is amended by adding after the section added by section 723 of this title the following:

"SEC. 205. CERTAIN RURAL DEVELOPMENT INVESTMENTS BY QUALIFIED TELEPHONE BORROWERS NOT TREATED AS DIVIDENDS OR DISTRIBUTIONS.

"(a) IN GENERAL.--The Administrator shall not--

"(1) treat any amount invested by any qualified telephone borrower for any purpose described in section 607(c)(2) of the Rural Development Act of 1972 (including any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, which is used by such company for such a purpose) as a dividend or distribution of capital, to the extent that, immediately after such investment, the aggregate of such investments does not exceed 1/3 of the net worth of the borrower; or

"(2) require a qualified telephone borrower to obtain the approval of the Administrator in order to make an investment described in paragraph (1).

"(b) QUALIFIED TELEPHONE BORROWER DEFINED.--As used in subsection (a), the term 'qualified telephone borrower' means a person--

"(1) to whom a telephone loan has been made or guaranteed under this Act; and

"(2) whose net worth is at least 20 percent of the total assets of such person.".

SEC. 725. IMPROVEMENTS IN TELEPHONE PROGRAM.

Title II (7 U.S.C. 922 et seq.) is amended by adding after the sections added by sections 723 and 724 of this title the following:

"SEC. 206. GENERAL DUTIES AND PROHIBITIONS.

"(a) DUTIES.--The Administrator and the Governor of the

telephone bank shall--

"(1) notwithstanding section 553(a)(2) of title 5, United States Code, cause to be published in the Federal Register, in accordance with section 553 of such title, all rules, regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this Act;

"(2) in evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use the depreciation rates used to compile the most recent report of the borrower's operations filed by the borrower with the Rural Electrification Administration, or, in the absence of such a report, the rates used by the borrower to calculate depreciation expenses in the most recent return of Federal income taxes (including information returns) filed by the borrower with the Internal Revenue Service; and

"(3) make loans for all purposes for which telephone loans are authorized under section 201 or 408, to the extent of qualifying applications therefor.

"(b) PROHIBITIONS.--The Administrator and the Governor of the telephone bank shall not--

"(1) rescind an insured telephone loan, or a Rural Telephone Bank loan, made under this Act without the consent of the borrower, unless all of the purposes for which loans have been made to the borrower under this Act have been accomplished with funds provided under this Act;

"(2) regulate the order or sequence of advances of funds under telephone loans made under this Act to any borrower who has received any combination of telephone loans from the Rural Electrification Administration, the Rural Telephone Bank, or the Federal Financing Bank; or

"(3) deny a loan or advance to, or take any other adverse action against, an applicant for, or a borrower of, a telephone loan under this Act for any reason which is not based on a rule, regulation, bulletin, or other written policy standard which has not been published pursuant to section 553 of title 5, United States Code.".

SEC. 726. PROMPT PROCESSING OF TELEPHONE LOANS.

Title II (7 U.S.C. 922 et seq.) is amended by adding after the sections added by sections 723, 724, and 725 of this title the following:

"SEC. 207. PROMPT PROCESSING OF TELEPHONE LOANS.

"Within 10 days after the end of the second and fourth calendar quarters of each year, the Administrator shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report--

"(1) identifying each completed application for a telephone loan under section 305, a guarantee of a telephone loan under section 306, or a loan under section 408, which has not been finally acted upon within 90 days after the

date the completed application is submitted; and

"(2) stating the reasons for the failure to finally act upon the completed applications within such 90-day period.".

Subtitle C--Amendments Relating to Title III of the 1936 Act

SEC. 731. CREATION OF SEPARATE ELECTRIC AND TELEPHONE ACCOUNTS WITHIN RURAL ELECTRIC AND TELEPHONE REVOLVING FUND.

Section 302 (7 U.S.C. 932) is amended by adding at the end the following:

"(c)(1) The Administrator shall maintain 2 separate accounts within the fund, which shall be known as the electric account and the telephone account, respectively.

"(2)(A) The Administrator shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to operations of the electric loan program, in the electric account.

"(B) The Administrator shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to operations of the insured telephone loan program, in the telephone account.

"(3)(A) The assets accounted for in the electric account shall be available solely for the operation of the electric loan program under this Act.

"(B) The assets accounted for in the telephone account shall be available solely for the operation of the telephone loan programs under this Act (other than under title IV).".

SEC. 732. BORROWERS TO DETERMINE AMORTIZATION PERIOD FOR INSURED TELEPHONE LOANS.

Section 311 (7 U.S.C. 940a) is amended to read as follows:

"The term of any telephone loan made under this title shall be determined by the borrower at the time the loan is made.".

SEC. 733. TIER REQUIREMENT FOR INSURED TELEPHONE LOANS.

Section 305 (7 U.S.C. 935) is amended by adding at the end the following:

"(d) The Administrator shall make a telephone loan under this title to an applicant therefor who is otherwise qualified to receive such a loan, at the highest interest rate (not less than the lowest interest rate specified in subsection (b)) at which the borrower, taking into account all current and outstanding indebtedness, would be capable of producing net income or margins before interest payments of at least 100 percent (but not more than 150 percent) of the interest requirements on all of the applicant's outstanding and proposed loans.".

SEC. 734. CLARIFICATION OF TELEPHONE LOAN GUARANTEE AUTHORITY.

Section 306 (7 U.S.C. 936) is amended by inserting after the 1st sentence the following new sentence: "The Administrator shall not provide such assistance to any borrower of a telephone loan under this Act unless the borrower specifically applies for such assistance.".

Subtitle D--Amendments Relating to Title IV of the 1936 Act

SEC. 741. MODIFICATION OF RURAL TELEPHONE BANK BOARD.

(a) IN GENERAL.--Section 405 (7 U.S.C. 945) is amended by

striking all that precedes subsection (g) and inserting the following:

"SEC. 405. BOARD OF DIRECTORS.

"(a) IN GENERAL.--The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (in this title referred to as the Telephone Bank Board).

"(b) MEMBERSHIP.--The Telephone Bank Board shall consist of 13 individuals, as follows:

"(1) PRESIDENTIAL APPOINTEES.--The President shall appoint 7 individuals to serve on the Telephone Bank Board who shall serve at the pleasure of the President--

"(A) 5 of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Rural Electrification Administration; and

"(B) 2 of whom shall be from the general public and not officers or employees of the Federal Government.

"(2) COOPERATIVE MEMBERS.--The cooperative-type entities, and organizations controlled by such entities, which hold class B or class C stock shall elect 3 individuals to serve on the Telephone Bank Board for a term of 2 years, by a plurality vote of the stockholders voting in the election.

"(3) COMMERCIAL MEMBERS.--The commercial-type entities, and the organizations controlled by such entities, which hold class B or class C stock shall elect 3 individuals to serve on the Telephone Bank Board for a term of 2 years, by

a plurality vote of the stockholders voting in the election.

"(c) ELECTIONS.--

"(1) VALIDITY.--An election under paragraph (2) or (3) of subsection (b) shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

"(2) BALLOTING.--Balloting in an election under paragraph (2) or (3) of subsection (b) shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

"(3) NO CUMULATIVE VOTING.--Cumulative voting shall not be permitted in any election under paragraph (2) or (3) of subsection (b).

"(d) COMPENSATION.--

"(1) IN GENERAL.--Except as provided in paragraph (2), each member of the Telephone Bank Board shall receive $100 per day for each day or part thereof, not to exceed 50 days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

"(2) EXCEPTIONS.--The 5 members of the Telephone Bank Board appointed under subsection (b)(1)(A) shall not receive compensation by reason of their service on the Telephone Bank Board.

"(e) SUCCESSION.--A member of the Telephone Bank Board may

serve after the expiration of the term of office of such member until the successor for such member has taken office.

"(f) CHAIRPERSON.--The members of the Telephone Bank Board shall elect 1 of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson shall preside at all meetings of the Board and may vote on a matter before the Board unless the vote would result in a tie vote on the matter.".

(b) APPLICABILITY OF SUNSHINE ACT.--Section 405 (7 U.S.C. 945) is amended by adding at the end the following:

"(j) OPEN MEETINGS.--For purposes of section 552b of title 5, United States Code, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(1) of such section.".

SEC. 742. RURAL TELEPHONE BANK CAPITALIZATION.

Section 406(a) (7 U.S.C. 946(a)) is amended in the 2nd sentence by striking "but not later than fiscal year 1991".

SEC. 743. PRO RATA PURCHASE OF RTB STOCK BY RTB BORROWERS.

The 2nd sentence of section 406(d) (7 U.S.C. 946(d)) is amended by inserting ", by paying an amount equal to 5 percent of the amount of each loan advance, at the time of such advance" before the period.

SEC. 744. CLARIFICATION OF AUTHORITY TO SET RTB LOAN LEVELS.

Section 408(a) (7 U.S.C. 948(a)) is amended by striking "is authorized on behalf of the telephone bank to make loans," and inserting "shall make loans on behalf of the telephone bank, to

the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by the Congress of the United States for loans to be made in any one year, and".

SEC. 745. BORROWERS TO DETERMINE AMORTIZATION PERIOD FOR RTB LOANS.

Section 408 (7 U.S.C. 948) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), the term of any loan made under this title shall be determined by the borrower at the time the loan is made.

"(2) The term of any loan made under this title shall not exceed the maximum term for which a loan may be made under section 4.".

SEC. 746. FULL USE OF RTB LOAN AUTHORITY.

Section 412 (7 U.S.C. 950b) is amended to read as follows:

"**SEC. 412. FULL USE OF TELEPHONE BANK LOAN AUTHORITY.**

"(a) **FULL USE.--**

"(1) **IN GENERAL.--**If an appropriations Act authorizes the telephone bank to make loans in a fiscal year and such Act requires that, within available resources and available authority, gross obligations for the principal amount of such loans be not less than a specified amount and not more than a different specified amount, the Governor of the telephone bank shall obligate for such loans for such fiscal year, to the extent of qualifying applications therefor and

without regard to nonstatutory quotas or other restrictions which may be sought to be imposed by or within the executive branch of the Federal Government, all unobligated funds available to the Governor to the extent such unobligated funds do not exceed the greater of such specified amounts.

"(2) SPECIAL RULE.--Notwithstanding paragraph (1), until all unobligated funds available to the Governor of the telephone bank for any fiscal year before fiscal year 1990 have been expended, the Governor shall obligate for loans under this title, to the extent of qualifying applications therefor and without regard to nonstatutory quotas or other restrictions which may be sought to be imposed by or within the executive branch of the Federal Government, all unobligated funds available to the Governor.

"(b) RELATION TO OTHER LAW.--Subsequent statute may not be held to supersede or modify this section, except to the extent that it does so expressly.".

SEC. 747. TECHNICAL AMENDMENTS RELATING TO THE RURAL TELEPHONE BANK PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) SECTION 406(h) AMENDMENTS.--Section 406(h) (7 U.S.C. 946(h)) is amended--

(1) by inserting after the 2nd sentence the following: "All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies."; and

(2) by striking "Rural Telephone Bank Borrowers Fairness" and inserting "Omnibus Budget Reconciliation".

(b) Section 408(b)(3) Amendments.--Section 408(b)(3) (7 U.S.C. 948(b)(3)) is amended--

(1) in subparagraph (B), by striking "paragraph" and inserting "subparagraph";

(2) in subparagraph (D)(ii), by adding at the end the following: "For purposes of the calculation under this subparagraph, such rate shall be zero."; and

(3) in subparagraph (E), by striking "subparagraph" the 2nd place such term appears and inserting "paragraph".

Subtitle E--Effective Date

SEC. 751. EFFECTIVE DATE.

(a) IN GENERAL.--Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this title.

(b) TECHNICAL AMENDMENTS.--The amendments made by section 748 of this title shall take effect as if such amendments had been included in chapter 2 of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987 on the date of the enactment of such chapter.

TITLE VIII--MISCELLANEOUS

SEC. 801. REGULATIONS.

No later than 180 days after the enactment of this Act, the

Secretary shall promulgate such regulations as may be necessary to carry out this Act.

SEC. 802. CONFORMING AMENDMENTS.

(a) Sections 657, 658, 1006, and 1014 of title 18, United States Code, are each amended by striking "Farmers' Home Administration" and inserting "Farmers Home Administration, the Rural Development Administration".

(b)(1) Section 623(c)(2) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(c)(2)) is amended by inserting ", or the Rural Development Administration" after "Farmers Home Administration".

(2) Section 628 of such Act (42 U.S.C. 9817) is amended--

(A) by amending the heading to read as follows:

"Department of Agriculture: Rural Development Administration Programs",

(B) by inserting ", or of the Rural Development Administration" after "of the Farmers Home Administration".

SEC. 803. LOAN RATES APPLICABLE TO CERTAIN LOANS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C> 1927(a)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) Notwithstanding the provisions of subparagraph (A), the Secretary shall establish loan rates for health care and related facilities that shall be based solely on the income of the area to be served, and such rates shall be otherwise

consistent with the provisions of such subparagraph.".

SEC. 804. ASSISTANCE TO COMMUNITIES DEPENDENT ON NATURAL RESOURCES.

(a) ADDITIONAL FUNDS FOR THE REFORESTATION TRUST FUND.--Section 303(b)(2) of Public Law 96-451, relating to the Reforestation Trust Fund (16 U.S.C. 1606a(b)(2)) is amended by striking "$30,000,000" and inserting "40,000,000 (of which, $10,000,000 shall be subject to subsection (e))".

(b) ADDITIONAL PURPOSES FOR WHICH FUND AVAILABLE.--Section 303(d) of such Act (16 U.S.C. 1606a(d)) is amended--

(1) in paragraph (1) by striking out "and" at the end thereof;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) economic diversification assistance to communities which are dependent to a significant degree upon Forest Service resource management decisions for their local economic activity; and".

(c) ASSISTANCE TO COMMUNITIES DEPENDENT ON NATURAL RESOURCES.--Section 303 of such Act (16 U.S.C. 1606a) is amended by adding at the end thereof the following new subsection:

"(e) In each fiscal year $10,000,000 of the amounts transferred to the Trust Fund by the Secretary under subsection (b)(2) shall be expended for purposes described in subsection (d)(2) and any such amount shall be available only as provided for in annual appropriations Acts.".

SEC. 805. ASSISTING CERTAIN DISTRESSED COMMUNITY FACILITY PROGRAM BORROWERS.

The Secretary shall establish and implement a program that is similar to the program established under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001), except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.
S.C. 306(a)). Not later than 120 days after the date of enactment of this Act, the Secretary shall promulgate regulations, as modeled after those promulgated under such section 353, that implement the program established under this section.

SEC. 806. WATER OR WASTE DISPOSAL LOANS TO BENEFIT RURAL BUSINESSES.

Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting "rural businesses," after "farm laborers,".

SEC. 807. WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS.

The Consolidated Farm and Rural Development Act is amended by adding after section 306 (7 U.S.C. 1926) the following new section:

"SEC. 306A. WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS.

"(a) WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS.--(1) The Secretary shall make or insure loans and make grants to rural water supply corporations, cooperatives, or similar entities, and public agencies, to provide for the conservation, development, use, and control of water (including the extension or improvement of existing water supply systems), and the installation or improvement of drainage or waste disposal facilities and essential community facilities including necessary related equipment. Such loans and grants shall be available only to provide such water and waste facilities and services to communities whose residents face significant health risks, as determined by the Secretary, due to the fact that:

"(A) a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable water supply systems; or

"(B) a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable waste disposal facilities.

"(2) Loans made or insured or grants made under this section to rural water supply corporations, cooperatives, or similar entities, or public agencies shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county in which--

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"(A) the per capita income of the residents of such county is less than or equal to 70 percent of the national average; and

"(B) the unemployment rate of the residents of such county is greater than or equal to 125 percent of the national average.

"(b) LOANS TO INDIVIDUALS.--(1) The Secretary shall make or insure loans and make grants to individuals who reside in a community described in subsection (a) for the purpose of extending water supply and waste disposal systems or connecting such systems to the residences of such individuals. Such loans shall be at a rate of interest no greater than the current Federal Financing Bank rate on loans of a similar term at the time such loans are made. The repayment of such loans shall be amortized over the expected life of the water supply or waste disposal system to which the residence of the borrower will be connected.

"(2) The loans and grants to individuals authorized under paragraph (1) shall be made:

"(A) directly to such individuals by the Secretary; or

"(B) to such individuals through the rural water supply corporation, cooperative, or similar entity, or public agency, providing such water supply or waste disposal services, pursuant to regulations issued by the Secretary.

"(c) PREFERENCE.--The Secretary shall give preference in the awarding of loans and grants to:

"(A) rural water supply corporations, cooperatives, or similar entities, or public agencies, as provided under subsection (a), proposing to provide water supply or waste disposal services to the residents of those rural subdivisions commonly referred to as colonias, which are characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities; and

"(B) individuals, as provided under subsection (b), who reside in a rural subdivision commonly referred to as a colonia, which is characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities.

"(d) DEFINITION.--For the purposes of this section the term "cooperative" means a cooperative formed specifically for the purpose of the installation, expansion, improvement or operation of water supply or waste disposal facilities or systems.

"(e) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated funds to carry out the purposes of this section as follows:

"(1) for grants as provided by this section, $30,000,000 per fiscal year; and

"(2) for loans as provided by this section, $30,000,000 per fiscal year.".

SEC. 808. WATER AND WASTE FACILITY LOANS AND GRANTS FOR CONSOLIDATION AND ECONOMIES.

The Consolidated Farm and Rural Development Act is amended by adding after section 306A, as added by the Rural Economic Development Act of 1989, the following new section:

"SEC. 306B. WATER AND WASTE FACILITY LOANS AND GRANTS FOR CONSOLIDATION AND ECONOMIES.

"(a) The Secretary shall make or insure loans and make grants for water and waste disposal facilities to serve persons or businesses in rural areas to--

"(1) rural water and waste cooperatives and consolidated water districts which are formed by the consolidation or federation of rural water or waste systems in existence on the date of enactment of this section, and the management services of which have been consolidated;

"(2) rural water and waste cooperatives and consolidated water districts, and borrowers under Title III of the Rural Electrification Act, which are not the result of a consolidation or federation described in paragraph 1, which provide or will provide water or waste disposal services in an area not defined by local political jurisdictions, and which due to the size and other characteristics of the area are expected to be operated in a manner that will achieve management efficiencies.

(b) PRIORITY.--The Secretary shall give priority to

borrowers which--

(1) serve rural areas that would benefit the most from the delivery of water and waste services, and where such services would assist the community in retaining existing population or increasing the number of persons residing in such communities.

(2) have achieved or will achieve the greatest economies of scale in the delivery and management of water and waste facilities and services.

(c) TERMS AND CONDITIONS AND OTHER REQUIREMENTS.--Loans and grants made under this section shall be made under the same terms, conditions, and other requirements and provisions as loans made for water and waste disposal under section 306. There is authorized to be appropriated such sums as may be required to carry out this section. Funds appropriated under this section shall remain available until expended. In the case of loans made under this section to borrowers under Title III of the Rural Electrification Act, the Administrator of the Rural Electrification Administration shall assist in facilitating the processing of such applications.".

SEC. 809. PRESERVATION OF ELIGIBILITY.

Notwithstanding any other provision of law, nothing in this Act shall be construed to adversely affect the eligibility, as it existed on the date of enactment of this Act, of cooperatives and other entities for any other credit assistance under Federal law.

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STAFF DIRECTOR

U.S. House of Representatives
Committee on Agriculture
Subcommittee on Conservation, Credit, and
Rural Development
Room 1301, Longworth House Office Building
Washington, DC 20515

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DAVID EBERSOLE
MINORITY CONSULTANT

November 16, 1989

SUMMARY OF H.R. 3581
RURAL ECONOMIC DEVELOPMENT ACT OF 1989

Title I--Reorganization of the Department of Agriculture

This title reorganizes portions of USDA to focus delivery of rural development programs so that one agency is responsible for delivery of the assigned programs.

Section 101 establishes the Rural Development Administration with an administrator appointed by the Secretary. The RDA will report to the Under Secretary for Small Community and Rural Development. The Rural Electrification Administration will continue to report to this Under Secretary.

Creation of the RDA will require that the Farmers Home Administration be split between functions which provide credit to farms and farmers and those which are designed to foster rural and small community development. The farm credit functions will retain the name of Farmers Home Administration.

It is intended that the Secretary will accomplish this division of functions in the most efficient and economical manner. Because FmHA is a nationwide organization with state, district, and county offices, as well as centralized offices for fiscal and data processing functions, it is recognized that both FmHA and the new RDA may need to enter into agreements to share some facilities and functions. It is not intended that an entire new bureaucratic structure be established for the operations of RDA.

Title II--Local Prioritization of Project Funding

This title creates a new delivery system for rural development programs which is designed to facilitate the maximum possible involvement of the people who are affected by the programs and to give them flexibility in meeting their unique

rural development needs. In practical terms, the new delivery system vests the decisions involving priorities with a panel of citizens of a State while reserving the decisions for funding of USDA rural development programs to the Secretary of Agriculture.

Section 201 establishes the new delivery system and defines the responsibilities of authorities of the various portions of the system.

Program participation is contingent on and will be based on development plans produced by local areas. These may be plans already in existence, or they may be developed specifically to meet the requirements of this bill. Bill language describes minimum criteria which should be addressed in a plan. The bill does not specify what a local area must be, but it is intended that to the maximum possible extent areas should be composed of multi-county groupings. It is believed that plans which include only a single community will have little chance of achieving success because of the lack of long-term economic viability. However, if the citizens of a single community believe that it is in their best interest to develop their own plan they are allowed to proceed in that manner. Decisions made by local citizens in this context are subject to evaluation by the state-level review panel discussed below.

The bill does not specify who is responsible for developing a local area plan. Hence, citizens in those areas can decide for themselves how the process should be conducted. It is believed that responsible planning requires the commitment of and participation by local governments, business, industry, finance, transportation, utilities, community leaders, professionals, labor, agriculture, and education.

A Rural Economic Development Review Panel will be established in each State. Membership is designated in the bill to include a wide diversity of persons with knowledge and interest in the economic development of the State. In order to remove the possibility that the panel's decisions will be dictated by governmental units, the bill specifies the organizations and groups which will be represented. The panel will be composed of 10 persons named by the heads of specified statewide organizations, 1 from other statewide rural development organizations not specified if such organizations exist in the State, the director of the State government agency responsible for economic and community development, a representative of the Federal Economic Development Administration, and the State director of the Federal small business development center or the State director of the Small Business Administration office. The Secretary of Agriculture will name one member, and the Governor may be a member or designate someone in his place. The deans of agriculture, business, and engineering schools will each name one

person to be advisors to the panel. The State Extension Director will also be an advisor. In those instances where there are more than one of the designated statewide organizations, the Governor will select which organization will name a member. It is expected that the Governor will rotate his selection among those organizations over the years. Likewise, the Governor will select which deans will name advisors and should rotate these selections among the various colleges and universities.

The bill specifically states that the persons named to the review panel by the various organizations must be representatives of rural areas. This means, for instance, that the selection by a bankers association should be affiliated with a rural bank, or those selected by an association of towns and townships be from a rural town. In this context, rural means a county with population of no more than 50,000.

In addition to these members, the Secretary of Agriculture may name other Federal employees to meet with the panel when it is considering plans and projects that need special expertise. These additional persons will not be voting members. Examples of the need for this expertise are instances where a plan includes an airport facility which might need advice from the Federal Aviation Agency or a multi-approach project which includes changes in education which might need expertise from the Department of Education. It is also anticipated that the panel will seek out other rural development experts within the academic and research community for advice and assistance.

It is believed that the interaction of private citizens active in rural development, State officials, and Federal employees of development agencies can work to the ultimate benefit of Rural America. Those persons, serving on the review panel, are charged with the responsibility of deciding how best to improve the rural economy of a State. Together they should be able to fashion comprehensive activities using private, State, and Federal resources in an efficient manner. In this context, it is intended that this legislation should not be interpreted to preclude States from creating and maintaining other rural development programs--indeed, it is intended that this legislation should provide an incentive to State governments.

The panel elects its own chair and vice chair who serve one year terms. The chair and vice chair may serve more than one term. The panel must meet at least quarterly, and it is intended that the panel will reserve available funding allocations for rank order decisions throughout the year. The Secretary is directed to retrieve any unobligated balances in State allocations on July 15 in order to redistribute funds where they may be needed.

Because the panel is composed of citizens who have other duties, the Governor is required to designate a State agency to provide administrative support and a State employee to serve as coordinator. The Secretary is authorized to grant up to $100,000 annually to share the costs of administration for the panel. This grant shall be taken from the national pool, not from the State's allocation. In carrying out the administrative support functions, it is expected that the State agency will act as the contact point for local areas submitting plans for consideration and for applicants submitting projects for rank ordering. When dealing with project applications, the State agency will be required to provide to the panel relevant technical information and data and to prepare for the panel any information about alternative programs and funds which might also be available for such a project.

The panel will have two main duties. The first is to review and approve the development plans of the local areas according to criteria in the bill which emphasize long-term economic viability. The second duty is to rank order applications for projects to be funded under programs of the Rural Development Administration. This duty will require the panel to evaluate the technical aspects of a proposal, for example, marketing plans and revenue projections of a business proposal and similar aspects of an infrastructure proposal.

Prior to reviewing plans or rank ordering projects, the panel must adopt written criteria and procedures in addition to those listed in the bill to be used in reviewing plans and rank ordering projects. The panel must provide for public input when establishing its criteria and procedures, and it must conduct an annual review to see if the criteria and procedures should be updated.

The panel may return a plan submitted by a local area if it does not meet the requirements of the bill or those established by the panel. If it does so, the panel must specify why it is being returned without approval and suggest improvements that would make it acceptable.

Following approval of a local area plan, citizens and communities may submit applications for funding under the programs authorized by law and administered by USDA. The programs listed are those in Sections 304(b), 306(a), subsections (a) through (f) of Section 310B of the Consolidated Farm and Rural Development Act of 1972 and Section 1323 of the Food Security Act of 1985. In general terms these are the water and waste, community facilities, business and industry and rural development loan programs.

It is expected that applications for funding will be submitted to the local, regional or state offices of the Rural

Development Administration in the same manner that applications are now submitted to the Farmers Home Administration. It is expected that those Federal offices will begin processing of the applications. In addition, however, applications will also be forwarded for the consideration of the review panel. The review panel may specify how it wishes to receive the applications. The function of the Rural Development Administration will be to determine if the application meets the requirements of the statutes and regulations governing the program. The function of the review panel is to determine if the proposal is economically and technically viable and to assign a priority to the application in relation to all other applications.

It is expected that there will be coordination between RDA and the review panel so that project applications which appear not to meet statutory or regulatory requirements will not have to be considered by the panel until those requirements have been met. It should be noted, however, that the review panel's membership includes persons with expertise in the availability of other funding and finance possibilities and the review panel may wish to suggest alternative funding sources to the applicant in such cases.

It has been the practice of USDA to evaluate preliminary applications for infrastructure projects to determine if they are likely to meet statutory and regulatory requirements before the applicant proceeds to complete expensive engineering planning. It is expected that this practice will continue and that the review panels should also give preliminary ranking advice. It is not expected that the preliminary approval by RDA or preliminary ranking by the review panel would ultimately be binding when the formal application is submitted.

It is expected that the review panels will use wide latitude in furthering rural development in each State. The rank order requirements of the bill apply only to those programs which are listed.

It is expected that the first step in the rank order process by the review panel will be to determine if the proposal fits the approved local area plan.

The panel's rank order is submitted to the Secretary of Agriculture who approves funding for those projects which meet the statutory requirements of the programs. It is anticipated that this language means the rank order will be submitted to the office or official designated by the Secretary. A decision to reject a rank-ordered application on grounds other than its failure to meet program regulations shall not be taken lightly and the Secretary is required to notify the panel and the agriculture committees of the House and Senate of the reasons for the rejection of any rank-ordered application.

Flexibility is built into the delivery system by allowing the review panel to rank order applications whose funding requirements do not exceed the aggregate total of funds allocated to the State by the Secretary for the programs authorized under the listed sections of statutes. In funding those applications, the Secretary is authorized to transfer funds from one appropriation to another, if necessary; but he cannot transfer loan authority for grants, or vice versa. The intention is to allow the people who live in a State to decide what projects will be the most beneficial.

The thrust of the delivery system is to further the economic development of Rural America so that rural economies may benefit from the vigor of the national economy and global growth by generating new employment and income-producing opportunities. It encourages the establishment and growth of locally-owned and managed small and very small businesses as an alternative to the practice of trying to recruit an outside business to relocate. The bill directs that review panels shall rank each business and infrastructure project on the potential of the project to promote growth by improving the ability of a rural community to increase the number of persons living in the community.

The bill specifically creates a priority for funding of infrastructure projects which are required to meet declared health emergencies. A health emergency in this context includes not only an immediate declared emergency by a Federal or State agency but a notice from such an agency that a water or sewer system presents a serious public health hazard. Such projects could include providing new or improved treatment to remove health endangering organic, inorganic, and radioactive chemicals found in drinking water sources, or providing an alternative safe drinking water source to users of such contaminated water. Examples could include finding a new water source as a result of a well being contaminated by industrial or other chemicals, installing treatment facilities to remove radon, adding a lime softening process to reduce lead in drinking water, improving the capacity or treatment of a waste facility to prevent raw or inadequately treated sewage from being discharged into a river, replacing lead service lines in water distribution systems, and installing filtration to remove disease-causing microorganisms which have created a public health hazard.

Section 202 authorizes a review panel to rank order a revolving loan fund which would be administered by a State agency named by the Governor. Funds would be granted by the Secretary from grant funds allocated to the State and cannot exceed 25 percent of the total of all funds allocated. The panel may exercise this authority only one time. It should be recognized that if a review panel decides to exercise this new

authority, it effectively reduces the funding available for other projects in that year.

It is not intended that the revolving loan fund will operate outside the new delivery system. It is intended that the review panel will have the decisive voice in improving the State's economic base in rural areas. The revolving fund is to be administered by a designated State agency, but the final approval for loans rests with the review panel which will use the same evaluation criteria used for rank ordering applications for federal funds; however, revolving fund loan applications will be approved or disapproved rather than rank-ordered. Loans from the fund will be reserved for "very small businesses" which are defined as those with fewer than 30 employees. In this context, it is expected that the State agency will act in the manner of a loan officer in a bank whose function is to determine the viability of the proposal and that the review panel will act in the manner of a loan committee which decides if the loan will be made. The State agency will be responsible for servicing any loans which are approved, and it will also be responsible for the fiscal integrity of the revolving loan fund. Funds from other sources may be added to the capital of the revolving loan fund, however this is not required.

The review panel is authorized to approve loans to capitalize intermediary lending entities. The review panel may require that such loans be matched by the entity.

Title III--Enhancement of Existing Rural Development Programs

This title amends certain statutory authorities to provide additional expertise and funds for rural development purposes.

Section 301 requires the Rural Electrification Administration to use three percent of its salaries and expenses appropriation to establish a technical assistance unit. The unit's function will be to advise and assist rural electric cooperatives to become involved in rural economic development projects in the areas they serve. It is expected that the Secretary will require the technical assistance unit in REA to obtain information from the information center established in the National Agriculture Library under Section 401. The Secretary will also require the technical assistance unit to give the Library all rural development information that it acquires from all sources as well as that developed on its own.

Section 302 allows rural electric cooperatives to defer loan payments in an amount equal to their investment in local business or community development projects. The coops will be required to make a cushion-of-credit payment in an amount equal to the payment deferment; interest will be earned by the coop on the

amounts paid to the cushion-of-credit account. The deferred payment will be repaid in a certain time period, but no interest will be accrued during the deferment period.

Section 303 raises the population limit for rural housing loans by Farm Credit Banks from 2,500 to 20,000 for purposes of pooling through Farmer Mac. Housing loans made by those banks for their own portfolios remain limited to communities of 2,500.

Section 304 raises the population limit for pooling of housing loans by Farmer Mac from 2,500 to 20,000.

Section 305 gives the Farm Credit System's banks for cooperatives two additional authorities for making water and waste facility loans. The first authorizes loans to cooperatives to be formed for the specific purpose of establishing or operating such systems. During the Subcommittee's hearings, it was learned that in some cases citizens living in rural areas are not eligible for assistance from any program. Typically, these areas were not located near any town and citizens often had to travel several miles in order to obtain clean drinking water. It is understood that loans from banks for cooperatives will have to be at market rates so that cooperatives formed for this purpose may need funds from other sources in order to make it economically possible to establish or operate a water or waste system.

The second new authority will be to make loans to municipalities of up to 20,000 population for the specific purposes of expanding systems for economic development or to address health-related problems of the inhabitants of those municipalities. The Environmental Protection Agency estimates that the 1986 amendments to the Safe Drinking Water Act will require nearly 30,000 water systems serving fewer than 500 people and nearly 14,000 systems serving between 500 and 10,000 to be upgraded during the 1990s. This authority will provide an additional source of funding to meet this need.

Section 306 lowers the cap on business and industry loans from $25 million to $1 million, and changes the emphasis to assistance for small and very small businesses. "Small" businesses are those which fit the definition of the Small Business Administration and "very small" businesses are those with no more than 30 employees. The intention is that the limited funds ($95.7 million in FY 1989) be used to foster business growth in more areas of the nation (only 60 loans in FY 1989). Testimony in field hearings before the Subcommittee showed that oftentimes, very small loans (less the $10,000) are needed to start new businesses--but no lending source is available.

Section 307 amends the water and waste program statutory language to include rural businesses in addition to purposes already in law. The Subcommittee was told that current practices in USDA make it impossible for a rural water district or community to increase the size of its system to accommodate a new industry. The amendment will remove that bar to growth. It is expected that this authority will be used only in connection with actual business expansion, or simultaneously with approved proposals for business expansion, rather than for such activities as creation of an industrial park in the hope that new businesses might be attracted.

Section 308 requires the Secretary to establish a national rural wastewater circuit rider grant program to be modeled after the existing National Rural Water Association Rural Water Circuit Rider Program that receives funding from FmHA. Annual appropriations of $4 million are authorized for this program.

Title IV--Rural Development Information Sharing and Technology Transfers.

This title is designed to increase the availability of information so that people looking for ways to promote growth in their local areas can enjoy one-stop service. The title also provides a mechanism to transfer new and emerging technology from the scientific and university sectors to rural areas for use in promoting economic growth.

Section 401 requires the Secretary to center rural development information gathering and dissemination in the National Agricultural Library. Current law requires the gathering of the information, but it does not provide a one-stop dissemination system. A General Accounting Office report showed that there are numerous program spread throughout the Federal government dealing with rural development, but information detailing these programs in not readily obtainable to even the most knowledgeable persons. The information available in the Library should also include examples of successful and unsuccessful efforts to further growth in rural areas. The information shall be made available through all possible means in addition to normal library exchange programs. It should be a policy of the National Agricultural Library to bring this information together in an easily accessible source so that policy makers also may use this information as a management tool in rural development. It is expected that the Secretary will augment the one-person staff at the Library now assigned to this function. It is also expected that the Secretary will provide the funds needed to enhance the ability of the Video and Teleconference Division and Teleconference Center of USDA to provide simultaneous two-way audio-visual teleconferencing capability to multiple sites with the advent of FTS 2000.

Section 402 establishes a competitive grant program to set up centers at non-profit institutions to develop technologies that are suitable for rural areas and may be applied readily by rural entrepreneurs. The Subcommittee finds that informational, manufacturing, processing and marketing technologies are evolving rapidly, but the private sector, especially large corporations, may once again bypass rural America. Small business in rural areas must be prepared to offer equal service that may not need the capital support of a national firm. This grant program is designed to meet this need. Annual appropriations of $50 million are authorized for Fiscal Years 1990 through 1992.

Section 403 consists of conforming amendments.

Title V--Rural Business and Leadership Training

This title establishes a national program to insure that rural citizens have access to technical and management assistance, business development, and planning.

Section 501 requires the Secretary to establish a national program in the Federal Extension Service to provide rural citizens with training, technical and management assistance regarding entrepreneurship, procedures for starting new businesses, self-employment opportunities, modern telecommunications and computer technology, and business and financial planning. In carrying out the duties under this title, the Committee expects the Secretary to recognize the importance of education, health and other services in providing leadership training for rural development. In addition, the Cooperative State Extension Service will be expected to assist in the development and implementation of federal and state programs that provide for job retraining, educational opportunities and health programs for rural residents. The Committee views such programs as an integral and vital part of rural economic development. The program must provide training in community planning, how to find and apply for grants and loans, and an updated listing of economic development programs. State extension services will be expected to compile and make available a catalog of available State, Federal and private programs that provide leadership training. It is intended that the extension service must be in position to provide the necessary training for rural citizens in the event no other source is available. The Secretary is also expected to review existing memoranda of understanding between the USDA agencies and the Small Business Administration and to make necessary changes so that maximum service can be provided to rural areas. It is not intended that the Secretary be required to establish a new program in competition with other agencies. Rather, it is expected that the Secretary will cooperate fully with other agencies to be sure the service is available.

Title VI--Rural Economic Development Research

This title includes two subtitles. Subtitle A authorizes three competitive research grants.

Section 601 establishes research on nonfood-nonfeed uses of agricultural commodities with emphasis on new products or processes that can be commercially implemented by small business.

Section 602 establishes research on social, economic, and other factors influencing the economic vitality of rural areas.

Section 603 authorizes demonstration areas showing how employment can be increased in rural areas when Federal, State, local, and private resources are focused on rural development.

Subtitle B authorizes research in the commercialization of new ideas, products and processes resulting from agricultural research and of new industrial uses of agricultural and forestry products. It establishes a non-profit corporation to be named the Agricultural Research Commercialization Corporation to carry out the provisions of the program.

Title VII--Rural Electrification Provisions

This title makes various amendments to the Rural Electrification Act to make REA and the Rural Telephone Bank more responsive to the needs of rural telephone systems and to accelerate the provision of modern telecommunications technology to rural areas.

Section 701 names the amendments as "Rural Telecommunications Improvements Act of 1989."

Section 702 recognizes in findings that 1) making modern telecommunications available in rural areas promotes economic development and improves the quality of rural life and 2) the efficient operations of the REA/RTB telephone programs are essential to the continued development of rural telecommunications infrastructure. It reaffirms the Congressional Statement of Policy that REA/RTB telephone loans develop and enhance modern rural telecommunications to the greatest practicable number of rural people at reasonable rates.

Section 711 codifies language from appropriations legislation that prevents the REA administrator from denying loans or advances based on the level of an electric or telephone borrower's general funds. It prevents REA from making a loan or grant to a telephone borrower for electric service or to an electric borrower for telephone service unless the borrower has obtained all required state regulatory approvals and the

Administrator/RTB Governor has determined that such loan or grant will not duplicate existing facilities.

Section 721 confirms that duplicative telephone facilities cannot be funded under the RE Act.

Section 722 brings rural telephone systems into the modern world. It adds the word "data" after "voice" and replaces words requiring the use of electricity between transmitting and receiving devices with the words "wire, fiber, radio, light, or other visual or electromagnetic means."

Section 723 preserves state regulatory ratemaking authority by prohibiting the administrator from requiring an applicant to increase subscriber rates as a condition for receiving a loan.

Section 724 encourages rural telephone systems to invest their own capital in rural development.

Section 725 codifies language in recent appropriations acts which allow borrowers with a combination of loans involving different rates to draw down the loans in any order, protects borrowers against unilateral recisions of loans by REA/RTB, requires lending for all authorized telephone purposes, prohibits enforcement of "hip-pocket" rules, and requires REA to use state approved depreciation rates in its feasibility studies for telephone loans.

Section 726 requires prompt approval of loan applications and for REA to report semiannually to the House and Senate agriculture and appropriations committees on all completed telephone loan applications which are unapproved after 90 days.

Section 731 separates electric and telephone assets, liabilities, income and expenses in the Rural Electric and Telephone Revolving Fund into respective sub-accounts, making each program segment accountable for its own performance.

Sections 732 and 746 assures that REA/RTB borrowers get the full amortization period provided in the act for REA loans unless the borrower elects a shorter period.

Section 733 clarifies long-standing REA policy that a "times interest earned ratio" (TIER) of more than 100 per cent is not necessary for approval of an insured telephone loan, requires that insured telephone loans be made at the highest rate at which a borrower is capable of meeting a TIER of 100 per cent within the range of interest rates contained in the act.

Section 735 clearly establishes that an applicant must request a telephone loan guarantee.

Section 741 makes a number of improvements in the makeup and operations of the Rural Telephone Bank. These improvements include increasing the number of board members named by the President from five to seven and eliminating the Governor of the Farm Credit System (a non-existent position) and the REA Administrator as members, eliminates conflict between policy-making and policy-implementing by prohibiting membership on the board of REA employees including the Administrator, requires the election of a chairman by the members of the board, and clarifies election procedures by requiring mail voting, election by plurality, and voting by 51 per cent of eligible voters. The RTB is made subject to the Government in Sunshine Act.

Section 742 eliminates the FY 1991 deadline for RTB capitalization so that the full statutory authorization for the purchase of Class A stock can be achieved. Infusion of the additional $7.8 million in low interest rate capital will assure that the bank's lending rate remains reasonable and will provide a larger capital base to support increased lending capacity after privatization.

Section 743 clarifies that the required purchase of Class B stock of the bank by RTB borrowers should be proportional with each advance; i.e., five per cent of each draw down,

Title VIII--Miscellaneous

Section 801 requires the Secretary to issue implementing regulations within 180 days after enactment.

Section 802 consists of conforming amendments.

Section 803 requires the Secretary to establish loan rates for health care and related facilities based solely on the income of the area to be served.

Section 804 provides additional funds for the Reforestation Trust fund by increasing the amount of assistance available to communities dependent on Forest Service resource management decisions for their local economic activity.

Section 805 requires use of debt restructuring and loan servicing procedures for delinquent community facility program loans made to hospitals and health care facilities.

Section 806 adds rural businesses to the list of entities for which water and waste facility loans and grants may be made.

Section 807 establishes a special water and waste program for areas where a significant proportion of the community's residents do not have access to, or are not served by, adequate

affordable water and waste systems. The program is limited to those areas where the per capita income is no more than 70 per cent of the national average and the unemployment rate is greater than 125 percent of the national average. The program gives preference to the residents of those rural subdivisions commonly referred to as colonias, which are characterized by substandard housing and inadequate roads and drainage as well as by lack of water and waste facilities; however, the program is available for any other area of the nation which fits the requirements. This program is not subject to the rank ordering requirements of Section 201.

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Tuesday, November 21, 1989

(Sub) Committee: Forests, Family Farms, and Energy

Public Hearing

met at 10:00 a.m. o'clock, in Room 1302 Longworth House Office Building

for the purpose of reviewing timber sale economics and the timber sale information reporting system

The following Members were present:

Mr.	Volkmer	Mr.	Morrison	Mr.	
Mr.	Olin	Mr.	Smith	Mr.	
Mr.	Stallings	Mr.	Herger	Mr.	
Mr.	Jontz	Mr.		Mr.	
Mr.	Johnson	Mr.		Mr.	
Mr.	Harris	Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
Mr.		Mr.		Mr.	
				Mr.	
				Mr.	
				Mr.	
				Mr.	

Staff present:

John Hogan, Minority Counsel
Tim DeCoster, Subcommittee Staff Director
Allison Biggs, Minority Consultant
Glenda Temple, Clerk
Jim Lyons, Staff Assistant
Jim Davis, Press Secretary

Witnesses:

1. Panel:

   Mr. George M. Leonard, Associate Chief, Forest Service, U.S. Department of Agriculture, Washington, D.C.

   Mr. Brian P. Crowley, Director of Planning and Reporting, Accounting and Financial Management Division, U.S. General Accounting Office, Washington, D.C.
   Acc. by: Mr. Ed Darragh, Assignment Manager, U.S. General Accounting Office, Washington, D.C.

2. Panel:

   Mr. Willard Hamilton, Coordinator, Timber Resource Policy Potlatch Corporation, Lewiston, Idaho

   Mr. Michael Welling, Resource Manager, Idaho Forest Industries, Coeur d'Alene, Idaho
   Acc. by: Mr. Kent Robinson, Policy and Program Analyst, National Forest Products Association, Washington, D.C.

3. Dr. Richard E. Rice, Senior Resource Economist, The Wilderness Society, Washington, D.C.

Statements Submitted for the Record:

1. Hon. Harold L. Volkmer, Member of Congress from Missouri

2. Hon. Sid Morrison, Member of Congress from Washington

U.S. GOVERNMENT PRINTING OFFICE 1987 75-833 (m)

Tuesday, November 21, 1989
Subcommittee on Forests, Family Farms, and Energy
Public Hearing
Review of timber sale economics and timber sale information reporting system

Mr. Volkmer, Chairman of the Subcommittee on Forests, Family Farms, and Energy, called the meeting to order for the purpose of reviewing accounting of timber sales from the National Forest System; in particular the timber sale program information reporting system, also know as T-Spurs, as developed by the Forest Service and the General Accounting Office. Mr. Volkmer made brief opening comments, as did Messrs. Morrison and Olin.

The witnesses listed on page 2 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At 12:30 p.m. the meeting was adjourned to reconvene subject to the call of the Chair.

Glenda Temple

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Friday, December 1, 1989

(Sub) Committee: Tobacco and Peanuts

Public Field Hearing

met at 9:05 a.m. o'clock, in Room Edgecombe County Office Building, Tarboro, North Carolina

for the purpose of reviewing the peanut price support program

The following Members were present:

Mr.	Rose	Mr.	
Mr.	Lancaster	Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	
Mr.		Mr.	

Members Also Present:

Mr.	Valentine
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	
Mr.	

Staff present:

Heidi Pender, Subcommittee Counsel

Witnesses:

1. Hon. James A. Graham, Commissioner of Agriculture, State of North Carolina, Raleigh,, North Carolina

2. Panel:
Mr. Thomas R. Cotton, Jr., Manager, Peanut Growers Cooperative Marketing Association, Franklin, Virginia

Mr. Fred W. Garner, President, Peanut Growers Cooperative Marketing Association, Roanoke Rapids, North Carolina

3. Mr. David T. Bateman, Chairman, North Carolina Farm Bureau Peanut Committee, Raleigh, North Carolina

4. Panel:
Mr. Norfleet L. Sugg, Executive Secretary, North Carolina Peanut Growers Association, Rocky Mount, North Carolina

Mr. Jerry L. Hamill, President, North Carolina Peanut Growers Association, Enfield, North Carolina

5. Mr. John R. Grimes, Treasurer, North Carolina Peanut Growers Association, Battleboro, North Carolina

6. Mr. William J. Spain, Jr., President and Chief Executive Officer, Virginia-Carolina Peanut Association, Suffolk, Virginia

7. Mr. Russell C. Schools, Executive Secretary, Virginia Peanut Growers Association, Capron, Virginia

8. Mr. W. Benny Bunting, United Farmers Organization, Oak City, North Carolina

9. Mr. Sam W. Worthington, peanut farmer, Windsor, North Carolina

10. Mr. Donald "Donnie" W. White, peanut farmer, Williamston, North Carolina

11. Mr. Graham R. O'Berry, President, Virginia-Carolina Peanut Association, Inc., Ahaskie, North Carolina

12. Mr. Charles E. Gregory, peanut equipment manufacturer, Lewiston-Woodville, North Carolina

13. Mr. Lindsey S. Vincent, Virginia Farm Bureau Federation, Richmond, Virginia

14. Mr. David R. Finch, farmer, Bailey, North Carolina

15. Mr. Marshall W. Grant, producer, Garysburg, North Carolina

16. Mr. Walter H. O'Neal, retired farmer, Whitakers, North Carolina

U.S. GOVERNMENT PRINTING OFFICE: 1987 - 75-833 (#)

Friday, December 1, 1989
Subcommittee on Tobacco and Peanuts
Public Field Hearing
Review peanut price support program

Witnesses Continued:

17. Mr. Charles M. Harden, farmer, Windsor, North Carolina

Statement Submitted for the Record:

1. Mr. Hassell Thigpen, farmer, Tarboro, North Carolina

Chairman Rose called the meeting to order for the purpose of reviewing the peanut price support program. Following opening comments of the Members, the witnesses listed on pages 2 and 3 of these minutes were recognized for their prepared testimony. Following their presentations, the witnesses were questioned by the Members of the Subcommittee.

At the conclusion of testimony from previously scheduled witnesses, Chairman Rose asked if others attending the meeting would like to be heard and a number of persons came forward. Their remarks were accepted as appearing in the record.

At 11:20 a.m. the meeting was adjourned, subject to the call of the Chair.

heidi pender

Heidi Pender

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Friday, December 1, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Field Hearing

met at 9:30 a.m. o'clock, in Room Kashmere Multi-Service Center, Houston, Texas

for the purpose of reviewing reauthorization of the Food Stamp Program and commodity distribution programs in the 1990 Farm Bill

The following Members were present:

Mr. Hatcher	Mr. Emerson	Mr.
Mr. de la Garza	Mr.	Mr.
Mr. (ex officio)	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Julia Paradis, Subcommittee Staff Director
Dean Mitchell, Staff Assistant
Lynn Gallagher, Minority Consultant
Anita Brown, Staff Assistant
Perri O'Keefe, Staff Assistant

Witnesses:

1. Panel:
Ms. Claudia Langguth, Deputy Commssioner for Client Self-Support Services, Texas Department of Human Services, Austin, Texas

Mr. Wayne Kuykendall, Supervisor, Food Distribution Division, Texas Department of Human Services, Austin, Texas

Ms. Kate Fitzgerald, Director, Food Assistance Programs, Texas Department of Agriculture, Austin, Texas

2. Panel:
Ms. Maria Gomez, United Farm Workers, San Juan, Texas
Acc. by: Ms. Vikki Flores, Attorney, Texas Rural Legal Aid, Inc., Weslaco, Texas

Ms. Maria Norma Martinez, Attorney, Texas Rural Legal Aid, Inc., Weslaco, Texas

Mr. Zy Weinberg, Executive Director, Texas Association of Community Action Agencies, Austin, Texas

Ms. Veronica Jefferson, President, Houston Welfare Rights Organization, Houston, Texas

Mr. Francisco Carranco, Member, National Board, American Association of Retired Persons, Washington, D.C.

3. Panel:
Ms. Susan Ryon, Food Service Director, Castleberry Schools, Fort Worth, Texas, on behalf of the Texas School Food Service Association

Ms. Helen Flowers, Food Service Director, Kingsville Independent School District, Kingsville, Texas
Acc. by: Ms. Jean Atkinson, Food Service Director, Robstown Independent School District, Robstown, Texas

Mr. Dave Williams, Executive Director, The Houston Food Bank, Houston, Texas

Ms. Ellen Mitchell, Director, Interfaith Hunger Coalition, Houston Metropolitan Ministries, Houston, Texas

Ms. Susan Bailey, Project Director, Target Hunger, Houston, Texas

Statements Submitted for the Record:

Ms. Evonne Charboneau, Attorney, Texas Rural Legal Aid, Inc., Weslaco, Texas

U.S. GOVERNMENT PRINTING OFFICE: 1987 75-833 (H)

Friday, December 1, 1989
Subcommittee on Domestic Marketing,
Consumer Relations, & Nutrition
Public Field Hearing
Review of reauthorization of the
Food Stamp Program and commodity
distribution programs in the
1990 Farm Bill

Subcommittee Chairman Charles Hatcher called the hearing to order and delivered the opening remarks. Mr. Hatcher recognized Mr. Emerson and Mr. de la Garza for their opening remarks.

The witnesses came forward in panels and individually delivered statements. Witnesses were questioned after each panel's statements were concluded.

After concluding remarks, Mr. Hatcher adjourned the hearing at approximately 12:00 Noon.

Julia Paradis

U.S. House of Representatives
Committee on Agriculture
Washington, DC 20515

MINUTES

Date Friday, December 8, 1989

(Sub) Committee: Domestic Marketing, Consumer Relations, and Nutrition

Public Field Hearing

met at 9:30 a.m. o'clock, in Room New York City Terminal Produce Market, Bronx, New York

for the purpose of reviewing reauthorization of the commodity distribution programs and the Food Stamp Program in the 1990 Farm Bill

The following Members were present:

Mr. Hatcher	Mr. Emerson	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
Mr.	Mr.	Mr.
		Mr.
		Mr.
		Mr.
		Mr.

Staff present:

Julia Paradis, Subcommittee Staff Director
Lynn Gallagher, Minority Consultant
Anita Brown, Staff Assistant
Xavier Equihua, Staff Assistant

Witnesses:

1. Panel:

   Mr. Oscar R. Best, Deputy Commissioner, Division of Income Maintenance, New York State Department of Social Services, Albany, New York

   Mr. Harley M. Griffiths, Deputy Commissioner for Marketing, New York State Department of Agriculture and Markets, Albany, New York

   Mr. Joseph R. Barnett, Staff Director, New York State Assembly Task Force on Food, Farm, and Nutrition Policy, Albany, New York

2. Panel:

   Mr. Solomon Malach, General Counsel, New York City Human Resources Administration, New York, New York

   Mr. Bruce Hoffman, Director of Procurement, Office of School Food and Nutrition Services, New York City Board of Education, Long Island City, New York

   Ms. Denise E. Toulon, Director, Food Technology, Office of School Food and Nutrition Services, New York City Board of Education, Long Island City, New York

3. Panel:

   Ms. Kathy F. Goldman, Director, Community Food Resource Center, New York, New York

   Acc. by: Ms. Liz Krueger, Associate Director, Community Food Resource Center, New York, New York

Statements Submitted for the Record:

None

U.S. GOVERNMENT PRINTING OFFICE: 1987 75-833 (m)

Friday, December 8, 1989
Subcommittee on Domestic Marketing,
Consumer Relations, & Nutrition
Public Field Hearing
Review of reauthorization of the
commodity distribution programs
and the Food Stamp Program in the
1990 Farm Bill

Subcommittee Chairman Charles Hatcher called the hearing to order and delivered the opening remarks. Mr. Hatcher recognized Mr. Emerson for his opening remarks.

The witnesses came forward in panels and individually delivered statements. Witnesses were questioned after each panel's statements were concluded.

After concluding remarks, Mr. Hatcher adjourned the hearing at approximately 11:15 a.m.

Julia Paradis